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11 SOUTHCENTRAL FEDERAL SUBSISTENCE REGIONAL
12 ADVISORY COUNCIL PUBLIC MEETING

13

14

15 VOLUME I

16

17 October 2, 2002

18 Masonic Hall

19 Cordova, Alaska

20 8:30 o'clock a.m.

21

22 COUNCIL MEMBERS PRESENT:

23

24 Ralph Lohse, Chairman

25 Robert Churchill

26 Fred Elvsaa

27 Susan Wells

28

29 Regional Coordinator, Ann Wilkinson

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1 P R O C E E D I N G S

2

3 (Cordova, Alaska - 10/2/2002)

4

5 (On record)

6

7 CHAIRMAN LOHSE: I'll call this fall
8 meeting of the Southcentral Subsistence Regional Advisory
9 Council to order. And with that, we'd like to have a
10 roll call.

11

12 MR. CHURCHILL: Thank you, Mr. Chair.
13 Gilbert Dementi.

14

15 MS. WILKINSON: Gilbert went to work and
16 he called and said he would not be able to make it most
17 likely and since he isn't here he didn't.

18

19 MR. CHURCHILL: Kenneth Vlasoff. Fred
20 Elvsaas.

21

22 MR. ELVSAAS: Here. It's Elvsaas.

23

24 MR. CHURCHILL: I'll work on it, I am so
25 bad at this. Susan Wells.

26

27 MS. WELLS: Present.

28

29 MR. CHURCHILL: Ralph Lohse.

30

31 CHAIRMAN LOHSE: Present.

32

33 MR. CHURCHILL: And I am present, Robert
34 Churchill. We have a quorum, four of seven.

35

36 CHAIRMAN LOHSE: Thank you, Bob. With
37 that I'd like to welcome all of you that are sitting out
38 there and offer my condolences that you're having to
39 spend a beautiful fall day like this when you could be
40 out fishing or hunting or berry picking or cutting
41 fireweed. And I ask your patience and your understanding
42 if once in a while like a kid in school on a spring day I
43 space out and look out the window and think of where I'd
44 rather be.

45

46 But we're here to go through the business
47 at hand and we'll do the best that we can considering the
48 weather and the sunshine and the other things that are on
49 our minds.

50

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1 I'd like at this time to have each one of
2 the Council members introduce themselves, where they're
3 from and what I usually like to do I like to go through
4 everybody, audience and all so we have a little bit of
5 idea of who everybody is and each one of us introduce
6 ourselves. We'll just start in the front row here and
7 work our way back across the back room and work our way
8 forward over here.

9

10 With that, Bob.

11

12 MR. CHURCHILL: Yeah, my name is Bob
13 Churchill. I live in Anchorage, Alaska.

14

15 MR. ELVSAAS: I'm Fred Elvsaas and I'm
16 from Seldovia. I just wish we had the full body here.
17 We need to get this members so we're not just barely
18 making a quorum but thank you.

19

20 CHAIRMAN LOHSE: I'm Ralph Lohse. I'm
21 from Chitina, Cordova and I'm torn between both places.

22

23 MS. WELLS: I'm Susan Wells, I'm from
24 Kenai.

25

26 CHAIRMAN LOHSE: Ann.

27

28 MS. WILKINSON: Ann Wilkinson. I'm the
29 Regional Council coordinator for the Southcentral region
30 and I live in Anchorage.

31

32 REPORTER: My name is Nathan Hile. I
33 work for Computer Matrix and I'm the court reporter.

34

35 MS. PETRIVELLI: I'm Pat Petrivelli and
36 I'm the anthropologist for the Southcentral team with the
37 Office of Subsistence Management.

38

39 MS. WRIGHT: Sherry Wright. I'm the
40 Southcentral regional coordinator with the Fish and Game
41 Advisory Committees and I work as Board Support at the
42 Department of Fish and Game.

43

44 MS. ASPELUND: I'm Sue Aspelund,
45 executive director for Cordova District Fishermen's
46 United. I'd like to welcome you to gorgeous Cordova
47 today.

48

49 CHAIRMAN LOHSE: She didn't mention
50 yesterday.

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1 MR. KNAUER: I'm Bill Knauer with the
2 Fish and Wildlife Service, Office of Subsistence
3 Management.

4
5 MR. DAN**: I'm Dan **, Alaska Department
6 of Fish and Game.

7
8 MR. TIM**: I'm ** Forest Service,
9 subsistence fisheries biologist here in Cordova.

10
11 MR. JOHNSON: Mr. Jay Johnson, Cordova
12 Fish and Game.

13
14 MR. TAUBE: Tom Taube, Alaska Department
15 of Fish and Game, Glennallen.

16
17 MR. WATERS: Elijah Waters, BLM,
18 Glennallen.

19
20 MR. BRELSFORD: I'm Taylor Brelsford. I
21 work with BLM in Anchorage as the Staff Committee member.

22
23 MS. McCALL: My name is Eric McCall. I
24 am a social scientist working for the Native Village of
25 Eyak. And I'm working with the Partners for Fisheries
26 Monitoring Program.

27
28 MS. COHEN: Janet Cohen, I'm an
29 anthropologist with the Park Service in Anchorage.

30
31 MS. SHARP: Devi Sharp. I'm the Chief of
32 Natural Cultural Resources as Wrangell-St. Elias National
33 Park and Preserve.

34
35 MR. VEACH: Eric Veach. I'm a fisheries
36 biologist for Wrangell-St. Elias National Park and
37 Preserve.

38
39 MR. NELSON: Dave Nelson. I'm a
40 fisheries biologist with the National Park Service
41 stationed in Anchorage.

42
43 MR. BARTO: Rob Barto with the Kenai
44 Refuge in Soldotna.

45
46 MR. BRYDEN: Jeff Bryden, I'm the lead
47 law enforcement subsistence, Forest Service.

48
49 MR. SHOWALTER: James Showalter, only
50 government non-person yet with the Kenaitze Tribe.

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1 MS. WILLIAMS: I'm Kate Williams. I work
2 for the Native Village of Eyak as the **natural resource
3 programs.

4
5 MR. PALMER: I'm Sean Palmer. Commercial
6 fisheries, Fish and Game, Anchorage.

7
8 MR. WENDELL: I'm Wendell (away from
9 microphone), Commercial Fisheries, Cordova.

10
11 MR. KING: Mark King, I'm vice president,
12 Native Village of Eyak. And on behalf of all of our
13 elders and all of our people and our president of our
14 nation, Robert Henrich, I'd like to welcome you all to
15 our traditional homeland.

16
17 MR. LAMBERT: Mike Lambert. I work for
18 the Naive Village of Eyak, tribal land officer.

19
20 MR. CAIN: Bruce Cain. I'm the head
21 flunky of from the Native Village of Eyak.

22
23 MR. G. SAM: Gabe Sam. Subsistence
24 advocate for RuralCap. I'm originally from Huslia.

25
26 I brought -- I went moose hunting in
27 Huslia and I brought some moose meat to cook up for a
28 dinner tonight but I don't have like any pots and pans in
29 my room so I was hoping to hook up with somebody from the
30 community here to help me.

31
32 UNIDENTIFIED VOICE: We'll take that
33 moose of your hands.

34
35 (Laughter)

36
37 MR. G. SAM: Yeah.

38
39 MR. ROBERT: I'm Robert (away from
40 microphone). I was just interested in the process and
41 came to check it out.

42
43 MR. ASHE: Dan Ashe. I work for Fish and
44 Game. I'm the Copper River gillnet manager.

45
46 MR. SONNEVIL: I'm Gary Sonnevil. I am
47 the project leader of the Kenai Field office for U.S.
48 Fish and Wildlife Service.

49
50 MR. SIMMONS: I'm Rod Simmons with the

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1 Fish and Wildlife Service and serve on the Interagency
2 Staff Committee.

3

4 CHAIRMAN LOHSE: Well, like Mr. Showalter
5 said, there's not very many non-government people here.
6 I'm surprised to see even a couple of Cordovans here on a
7 day like today. I didn't expect very many when it's the
8 opening day of doe season and it's not blowing and it's
9 not storming and I imagine as many people as possible are
10 out.

11

12 So with that, Mark, I thank you for your
13 welcome.

14

15 I'd like to just state a few things. We
16 have a sign-in sheet over there. Would you please sign
17 in and sign in every day so that we have a record of who
18 is here. One thing on this building, this is a historic
19 building. In respect for it as a historic building, use
20 only mild tape to tape things to the wall, no nails and
21 pegs and make sure that you got the kind of tape that
22 doesn't pull things off. And be careful, don't push the
23 chairs and stuff up against the wall, don't break the
24 mirrors. And the part of the room that we're allowed to
25 use is the bathroom, the kitchen and this main room here.
26 The rest of the building is off limits and out of respect
27 for the people who own the building, Native Village of
28 Eyak, let's, you know, honor to do that.

29

30 We have public testimony. We will take
31 it any time during the meeting or we will take it during
32 the public testimony period. The little green slips like
33 this, if you want to give public testimony, fill one out.
34 We try to allow anybody to speak on any subject that
35 needs to be spoken to. You can put on your testimony
36 whether you'd like to speak during the public testimony
37 period or whether you'd like to reserve it to a certain
38 proposal that's in front of us.

39

40 Let's see, there's handouts on the back
41 table on all the subjects that we're going to deal with.
42 You're welcome to help yourself at any time. Coffee's
43 over there in the corner.

44

45 And with that, I think we're going to go
46 on to the agenda. Like I said, I'm more dreaming about
47 deer hunting than I am about the meeting so if Ann has to
48 stop and correct me and tell me that I got off track
49 someplace, I'm not taking it as an insult and the rest of
50 you don't hold it against me.

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1 Okay, so the review and adoption of the
2 agenda. You'll find the agenda, those of you that have
3 one of these books, the agenda is the first part under
4 Tab A. Board, did you see any changes that need to be
5 made? Any additions that you'd like to add.

6

7 MR. CHURCHILL: None.

8

9 CHAIRMAN LOHSE: I have a couple that
10 have been brought to my attention under agency reports,
11 under 4, the Bureau of Land Management has a few other
12 people that would like to speak during that time period.
13 And under 5, the Alaska Department of Fish and Game Sean
14 Palmer would also like to introduce himself. So they're
15 not changing the agenda there's just going to be some
16 additions right in that point.

17

18 We have under No. 12, it's possible that
19 we'll get that far today it's doubtful, if we do the
20 person that wants to present that won't be here until
21 tomorrow. I don't think we need to change that at this
22 time.

23

24 I think that that pretty much covers it
25 from my standpoint if nobody else has any other changes.
26 So in that case if there are no other changes, a motion
27 to adopt the agenda -- well, I've got Proposal 28 right
28 here but I think Pat's going to be able to handle that
29 one, right? Pat.

30

31 MS. PETRIVELLI: Do you want it to be
32 first?

33

34 CHAIRMAN LOHSE: No, not now. But I mean
35 that's Larry's?

36

37 MS. PETRIVELLI: Uh-huh.

38

39 CHAIRMAN LOHSE: Are you going to be able
40 to take that one or should I put that at the end of the
41 agenda?

42

43 MS. PETRIVELLI: We were thinking that we
44 could do all the C&T's first.

45

46 CHAIRMAN LOHSE: Okay.

47

48 MS. PETRIVELLI: Because Larry's supposed
49 to be here at 12:30.

50

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1 CHAIRMAN LOHSE: Okay, we'll move
2 Proposal 28 to the end of the agenda and that way for
3 sure Larry should be here.

4
5 MR. CHURCHILL: I'll move that we adopt
6 the agenda with the suggested additions and minor
7 changes.

8
9 MS. WELLS: I'll second that.

10
11 CHAIRMAN LOHSE: Thank you. It's been
12 moved and seconded. Any discussion. Hearing none, the
13 question's order. All in favor signify by saying aye.

14
15 IN UNISON: Aye.

16
17 CHAIRMAN LOHSE: All opposed signify by
18 saying nay.

19
20 (No opposing votes)

21
22 CHAIRMAN LOHSE: Motion carries. The
23 minutes. You'll find it under Tab C of the May meeting.

24
25 MS. WILKINSON: B.

26
27 CHAIRMAN LOHSE: No, the March meeting,
28 not the May meeting. Do I hear any changes or additions
29 that need to be made to the minutes from the Council.

30
31 MS. WELLS: Mr. Chair, there's only one
32 that I saw on Page 9, public testimony, that was Mr. Mike
33 Carpenter, not Mark.

34
35 CHAIRMAN LOHSE: Okay, Mike Carpenter.

36
37 MS. WELLS: No big deal but. And then on
38 Page 11, ADF&G, I don't know if this is -- it doesn't
39 make sense, perhaps in a couple of years the State will
40 allow take of cows, just a little grammar from a
41 teacher's point of view. That's all I had.

42
43 CHAIRMAN LOHSE: Well, I don't think we
44 need to correct the grammar.

45
46 MS. WELLS: Okay.

47
48 CHAIRMAN LOHSE: Is the.....

49
50 MS. WELLS: It won't bother me.

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1 CHAIRMAN LOHSE: Is the sense clear or
2 not.

3
4 MS. WELLS: No, I wasn't really sure.
5

6 CHAIRMAN LOHSE: It just needs a the.
7 And in fact, I read the, the in there automatically.
8 Okay, any other changes, minor or major that any of the
9 Council members have seen? IF not a motion to adopt the
10 minutes is in order.

11
12 MR. CHURCHILL: So moved.

13
14 CHAIRMAN LOHSE: It's been moved, do I
15 hear a second.

16
17 MS. WELLS: Second.

18
19 CHAIRMAN LOHSE: It's been moved and
20 seconded. Any discussion. Hearing none, question is in
21 order. All in favor signify by saying aye.

22
23 IN UNISON: Aye.

24
25 CHAIRMAN LOHSE: All opposed signify by
26 saying nay.

27
28 (No opposing votes)

29
30 CHAIRMAN LOHSE: Motion carries. We now
31 go on to the Chair's report and this Chair is going to
32 say all of you have the ability to read, I think. I
33 haven't got anything real earthshaking to report. It's
34 all under Tab C. If you have any questions, you can ask
35 me about them at any time during the meeting. I really
36 don't -- I'm really not up to giving you an oral report
37 today so I'm going to let you read Tab C, the report is
38 there.

39
40 And with that, I'd like to see if any
41 Council members have anything they'd like to report from
42 their area or from their constituents or from people that
43 they've had contact with.

44
45 Sue.

46
47 MS. WELLS: No. No.

48
49 CHAIRMAN LOHSE: Hearing none, we'll go
50 on. At this point in time we have public testimony.

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1 Okay, Devi, did you want to speak to anything
2 specifically or just want to speak as public testimony
3 right now?

4

5 MS. SHARP: I'd prefer to save it for the
6 two proposals, the three proposal listed.

7

8 CHAIRMAN LOHSE: Oh, I didn't -- I
9 thought that was a date because you put the little slash
10 signs right there.

11

12 MS. SHARP: I did that to confuse you.

13

14 CHAIRMAN LOHSE: You did. You did
15 confuse me, too. Okay.

16

17 MS. SHARP: Thank you.

18

19 CHAIRMAN LOHSE: And Sherry, you've got
20 down that you'd like to speak to wildlife proposals.

21

22 MS. WRIGHT: When they do the call.

23

24 CHAIRMAN LOHSE: When they come up.

25

26 MS. WRIGHT: Yes.

27

28 CHAIRMAN LOHSE: Okay. I get easily
29 confused today. Okay, well, everybody wants to speak to
30 specific things and so we'll wait until those specific
31 items come up unless you'd like to talk. Sue.

32

33 MS. ASPELUND: I'd like to read our
34 customary trade comments at this point if that's
35 appropriate.

36

37 CHAIRMAN LOHSE: That's very appropriate.
38 That way you can go deer hunting sooner.

39

40 MS. ASPELUND: Thank you for this
41 opportunity to testify to you regarding Cordova District
42 Fishermen's United's feelings about customary trade.

43

44 We followed the activities and the
45 development of the customary trade task force throughout
46 its process. And certainly support the hard work that
47 those folks put in in their attempt to develop draft
48 regulations that both recognize and authorize existing
49 customary trade practices while not encouraging expansion
50 of them.

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1 And we believe that there are several
2 really critical issues that have to be addressed in a
3 successful effort to draft regulatory language on
4 customary trade. These are that, first and foremost,
5 sustainability of the resource has to come before every
6 other consideration and all the draft regulations need to
7 be evaluated for resource impacts. The consideration of
8 uses by any single entity may not have a major impact but
9 the cumulative effects, as you well know, do and sound
10 biological principles simply have to be the highest
11 priority.

12
13 The draft regulations must require
14 accountability of the harvests to ensure evaluation of
15 the impacts to the resource. Clearly without adequate
16 information on total removals it's not possible to
17 evaluate whether or not our uses are sustainable.

18
19 We don't think that current levels of
20 uses are a threat to the resource but a newly associated
21 cash value may well encourage those not currently engaged
22 in subsistence harvest for customary trade to become
23 involved and therefore increase the harvest levels.

24
25 In order to ensure enforceability, draft
26 regulations have to require accountability of the sales
27 without some kind of a sales history, enforcement of the
28 regulations won't be possible. The regulations that are
29 not enforceable clearly will provide opportunities for
30 abuse of the system and therefore will likely see an
31 intended commercialization and resource impacts.

32
33 Public health and safety standards must
34 be assured for all products sold to the public.
35 Commercially sold products are held to a very high health
36 and safety standard and in order to protect both the
37 public and the hard earned markets of the commercial
38 fishing industry, all sales must adhere to minimum health
39 and safety standards.

40
41 I'm sure you're all well familiar with
42 the devastation that occurred to the canned salmon
43 markets a number of years ago to one single case of
44 botulism.

45
46 The level of sales in the proposed rule
47 of \$1,000 per household member approaches that of
48 commercial fisheries in some areas of the state. It's
49 our understanding that the legislative intent behind the
50 initial Federal definition of customary trade was that

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1 the practice be non-commercial in nature and that
2 subsistence harvests were not intended to become part of
3 the commercial stream. In some regions of the state and
4 with the current status of the salmon industry, it's
5 possible that proposed sales levels of some subsistence
6 harvest may actually replace existing commercial
7 harvesters in some part of the state, particularly the
8 AY-K and given that subsistence is a priority use that's
9 a real likelihood.

10

11 The regulation should disallow any sales
12 to a commercial entity, whether it's a fisheries business
13 or otherwise. Sales should occur only between
14 individuals and not between individuals and any kind of a
15 business.

16

17 Again, it's our understanding that the
18 legislative intent behind the initial Federal definition
19 was that the practice be non-commercial in nature and
20 that subsistence harvest wouldn't become part of the
21 commercial stream.

22

23 Our organization certainly appreciates
24 the difficulty of crafting a workable regulation that
25 acknowledges the variety of uses that are in existence
26 that the same time that we don't commercialize the use
27 and we must recognize the protection of the resource is
28 paramount.

29

30 And good luck as you work on this one,
31 it's a thorny one and we appreciate all the work that
32 folks are putting in and look forward to being a part of
33 the process.

34

35 Thanks.

36

37 CHAIRMAN LOHSE: Thank you, Sue. Any
38 questions for Sue. Bob.

39

40 MR. CHURCHILL: Yeah, Sue, thanks so much
41 for coming. I was real interested in your comment that
42 at a thousand dollars per household member approaches the
43 dollar quota of commercial fishing in some areas, could
44 you expand a little bit on that?

45

46 MS. ASPELUND: Sure. It's our
47 understanding that even in the good days up on AY-K
48 systems, commercial harvest were between five and \$10,000
49 and as you all know now in that region there are often no
50 commercial harvests and so that's going to be a really

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1 tough balancing act to ensure that we can protect
2 commercial harvests there and not replacing them by
3 subsistence.

4

5 Because I think some of the testimony
6 that's been heard before the customary trade task force,
7 especially from that area indicated that there was a
8 desire to increase the cash levels because sales of
9 subsistence fish was really their only ability to
10 generate cash and that's a real fine line to dance that
11 Congress has said it's not supposed to be part of the
12 commercial stream.

13

14 MR. CHURCHILL: Thank you very much.

15

16 MS. ASPELUND: Uh-huh.

17

18 MR. ELVSAAS: Yeah, thanks for your
19 input. I'm very concerned about this \$1,000 limit that
20 we're talking about on sales. Especially just think
21 about it, if humpies are 10 cents apiece that's a hell of
22 a lot of fish and it just doesn't make good sense. I
23 think there needs to be a mechanism to have some sales
24 but I agree it should never be commercialized.

25

26 And I think we're all aware, if you look
27 throughout the state, there's going to be abuses, we have
28 to be aware that there will be abuses and the thing is
29 how to solve these problems as they come up so they don't
30 get to be a general practice.

31

32 I'm a subsistence fisherman and I have
33 never sold a fish. I've given away lots of fish but I've
34 never sold a fish. And I don't know that I would feel
35 right doing that. But nonetheless I support that concept
36 that you're concerned about. And I understand the union
37 is having a meeting tomorrow, is that right, the
38 fishermen here?

39

40 MS. ASPELUND: United Fishermen of Alaska
41 sought Federal grant funding to provide a subsistence
42 information program because our experience is, as we
43 started working this process was that very few people
44 really understood, number 1 the process and, number 2,
45 the potential ramifications to all users and to the
46 resource. And this program is designed basically just to
47 provide solid information on the Federal Subsistence
48 program, it's not an advocacy program other than if it's
49 an advocacy program it's simply that people need to get
50 engaged and involved and understand what's going on.

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1 And, yes, there'll be a meeting tomorrow
2 night to help people understand how they can come testify
3 to you and be part of Federal Subsistence management in
4 the state.

5
6 MR. ELVSAAS: I hope they can solve the
7 problem.

8
9 MS. ASPELUND: Well, I think, we, the
10 people are the ones that are going to be responsible for
11 solving the problem and the goal of that program is to
12 get people engaged.

13
14 MR. ELVSAAS: But I'd be interested in
15 hearing, you know, what the meeting results in.

16
17 MS. ASPELUND: You're welcome to come,
18 it's just down the street. We'd love to have you at the
19 meeting, yes.

20
21 CHAIRMAN LOHSE: Sue, did you say that's
22 tomorrow night?

23
24 MS. ASPELUND: Yep. Tomorrow night at
25 7:00 o'clock, library meeting room.

26
27 CHAIRMAN LOHSE: I think we already have
28 -- Mark, don't we have a dinner planned for tomorrow
29 night.

30
31 MS. WILKINSON: That's tonight.

32
33 CHAIRMAN LOHSE: That's tonight, oh,
34 okay.

35
36 MS. ASPELUND: Yeah.

37
38 CHAIRMAN LOHSE: Okay, thank you. I was
39 thinking it was tomorrow night and I was going to plan
40 something for tonight. Okay, that's fine. Then I don't
41 think we do have anything planned for tomorrow night so
42 maybe we can attend.

43
44 MS. ASPELUND: Could I comment back to
45 Mr. Elvsaas?

46
47 CHAIRMAN LOHSE: Yes.

48
49 MS. ASPELUND: I wanted you to know that
50 we are really impressed with the parameter that Ralph

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1 came up with a couple of meetings ago that, and I don't
2 have the specific language, it's been while since I
3 reviewed it but I really liked the concept that at least
4 50 percent of the fish harvested needed to be retained
5 for personal and family use. I think that goes a really
6 long ways towards solving the problem that you're
7 obviously concerned about and just wanted to give Ralph
8 and the Council kudos for adopting that.
9

10 MR. ELVSAAS: I just have one more at
11 this point. I can understand the need for people to be
12 able to sell subsistence fish in some amounts to recover
13 costs and so forth. And when you look at the
14 Yukon/Kuskokwim area, it's far different than here in
15 Southcentral. But, you know, even at 50 percent I just,
16 how do you establish the value, when do you reach the
17 \$1,000 or \$400, some areas have \$400? It's real
18 difficult for me because I can imagine a whole bunch of
19 scenarios where fish are very cheap or very high and I
20 agree we don't want this to be competitive with the
21 commercial fisheries, I'm also a commercial fisherman.
22 And yet we need a mechanism, you know, one that's
23 workable. And I'm sure we'll be back to the drawing
24 board over and over again.
25

26 But, thank you.

27
28 MS. ASPELUND: You're welcome. Than you
29 for the opportunity.

30
31 CHAIRMAN LOHSE: Any questions for Sue.
32 Susan.

33
34 MS. WELLS: No.

35
36 CHAIRMAN LOHSE: Bob.

37
38 MR. CHURCHILL: You know, another thing
39 you talked about would be to make sure you drafted
40 regulations to establish accountability, do you have any
41 specific thoughts on that or would you like to expand a
42 little bit on that?

43
44 MS. ASPELUND: Obviously harvest
45 reporting and the sales reporting were the mechanisms
46 that we were thinking of.

47
48 MR. CHURCHILL: Thank you.

49
50 CHAIRMAN LOHSE: No other questions.

00016

1 Thank you, Sue.

2

3 MS. ASPELUND: Thanks, Ralph.

4

5 CHAIRMAN LOHSE: Thank you for a well
6 presented balanced report.

7

8 Okay, with that, we have two people I saw
9 walk in that haven't introduced themselves, one from up
10 my way and Gabe, so you want to introduce yourselves so
11 everybody knows.

12

13 Wilson.

14

15 MR. JUSTIN: Thank you. Good morning. I
16 am Wilson Justin from Chistochina and I work for Mt.
17 Sanford Tribal Consortium and I'm representing today, Mt.
18 Sanford. And I'm representing today Mt. Sanford,
19 Mentasta, Chistochina.

20

21 Thank you.

22

23 CHAIRMAN LOHSE: Gabe. I have a
24 testimony thing here from you, do you want to testify
25 right now?

26

27 MR. G. SAM: Yes.

28

29 CHAIRMAN LOHSE: Okay.

30

31 MR. G. SAM: Good morning, Mr. Chair.
32 I'm a little sore this morning, I fell down a flight of
33 stairs, bummer.

34

35 I guess I was just listening to what Sue
36 was reporting and basically -- first of all my name is
37 Gabe Sam. I'm the subsistence advocate for RuralCAP.
38 I've been in that position for now a year and a half.
39 Before that I worked as director of wildlife and parks
40 for Tanana Chiefs Conference. I did a lot of Interior
41 fisheries issues up there.

42

43 I'm going to talk about two different
44 things. One is a summit that we put on in August.
45 August 18th to the 21st. And just a little feelings from
46 the Interior perspective of the customary trade.

47

48 First of all like I said my name is Gabe
49 Sam, I work for RuralCAP, that's 731 East 8th Avenue,
50 Anchorage, Alaska 99501. And in August or way back in

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1 March the board of directors for RuralCAp gave direction
2 that we needed a statewide summit to bring in people from
3 the village to discuss the issue of what's happening with
4 the resources in their regions. So we quickly got a
5 steering committee together and designed -- it was a very
6 unique process that we went through to design a
7 conference that would be specifically driven for rural
8 Alaska to discuss their issues. We didn't want agencies
9 to take it over because agencies, with all due respect to
10 agencies, they can come up with a lot of information in a
11 short period of time.

12

13 So the first day of the conference was
14 for the elders, a lot of the elders could only attend the
15 first day so it was elder driven, the discussion. And we
16 wanted them to voice their concerns of what happened in
17 the past and what they see is happening now with the
18 resources. So the whole day was devoted to the elders
19 and their perspectives.

20

21 You're going to have to excuse me, I have
22 a sore throat, I have a cold.

23

24 And so we were tape recording this and
25 also we had, you know, we were taking videotapes of all
26 the discussions.

27

28 CHAIRMAN LOHSE: Gabe, do you need some
29 water?

30

31 MR. G. SAM: Please. Right now in a
32 rough draft form we have this written report that we will
33 be distributing to all the agencies, tribal councils and
34 the 290 plus people that registered for the conference,
35 not a conference, summit. And so we're just -- this has
36 been transcribed by the people at RuralCAp and there's a
37 lot of information in there that could be used like for
38 this kind of forum.

39

40 The second day of the conference -- thank
41 you, Bob.

42

43 MR. CHURCHILL: Okay.

44

45 MR. G. SAM: The second day of the
46 conference was for managers, specifically resource
47 managers from different regions, we wanted to hear their
48 perspective of what they were working on.

49

50 From that direction -- from that day long

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1 discussions of the reports we heard, that was to go into
2 the next day, the breakout rooms, seven different
3 breakout rooms that we had ranging from wildlife
4 resources to marine mammals, what's happening in the
5 Legislature, different boards, Federal Subsistence Board.
6

7 And from that we came with the following
8 day, a report of action items that need to be taken on
9 what's going on out there.

10

11 We did a long series of the videotapes,
12 we were going to come up with a five part to seven part
13 series of videotapes on the different process that we
14 went through with this summit. And currently they're --
15 I've seen some of it and it's really quite amazing what
16 they could do with videography. But this report, we hope
17 to have out within a month or two and I was reading
18 through and it's pretty detailed. That's what's so good
19 about it, it's like reading what other people said, word
20 for word.

21

22 There was just a lot of different
23 information that we heard. For example, the Alyeska
24 Pipeline, you know, that bullet hole that went through
25 the Alyeska Pipeline, it dumped like 300,000 gallons of
26 oil onto the tundra and some of it washed into the
27 spawning streams. Well, one report we heard is at the
28 bridge there's two platforms that are like 60 feet deep
29 and you know, they're concrete platforms that the
30 pipeline sits on one side of the bridge and on the other
31 side -- well, one of these platforms moved like three
32 centimeters, it moved. And what would happen if that
33 pipeline, if a violent earthquake was to shake it so much
34 it was to rip it off and if it took them, you know, 72
35 hours to stop a little leaking hole, what is it going to
36 take to stop a pipeline that's severed right off and
37 pumping oil into the Yukon River.

38

39 So we hear discussions like that. It was
40 really quite something to hear from a lot of different
41 people.

42

43 The next discussion I'd like to talk
44 about is the customary trade. I sat in on a lot of these
45 meetings and, you know, one of the issues that was really
46 concerning was the sale and how much to set and regulate
47 that sale of subsistence caught fish. Specifically it
48 was geared towards like salmon strips, king salmon
49 strips.

50

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1 A lot of the people that sell king salmon
2 strips are older people, do not have a real income base
3 and so a lot of these people are also elders that are
4 raising their grandchildren and so they're trying to make
5 ends meet by selling fish, you know, to people like me
6 that live in the city and want to eat their customary
7 foods that they grew up on. I don't think they really
8 make a lot of money off of it. But I understand the fact
9 that there is that possibility that if somebody -- well,
10 like Mr. Robert Sundown said, if somebody was ambitious
11 enough, you know, they could really turn it into a big
12 production.

13
14 For example, in Galena, there was a
15 processing, fish processing plant there run by my uncle
16 Sidney Huntington, you know, he didn't make a lot of
17 money but he employed a lot of people, a lot of young
18 people to work. I guarantee you he -- I worked there one
19 summer and I only worked there one summer because he made
20 you work, I mean, there -- you know, there wasn't like
21 just from 8:00 to 5:00 in the afternoon, it was from 5:00
22 o'clock until like 10 or 11:00 at night. But he made
23 sure you ate well and, you know, he took care of you and
24 if you got hurt you got a day to heal up and, you know,
25 he was just a good guy to work for but unfortunately it
26 was only one season.

27
28 But I can see that point. And there's
29 big differences in regions. I think that's what the
30 Federal Subsistence Board is coming up was different
31 regions would make different regulations for the specific
32 region.

33
34 So we understood that at RuralCap and we
35 don't really have a position on it because we are
36 divided, the different board members from different
37 regions have a different perspective on it so we don't
38 really have a position on it. I mean we monitor and see
39 what goes on but we can't really -- I know how I'd vote
40 on it and what I'd say about it. But, you know, that's
41 not the RuralCaps position. And so we come out neutral
42 on it.

43
44 I just wanted to, you know, when I heard
45 about this meeting and that they were going to have this
46 dinner, I wanted to come here, first of all to introduce
47 myself to the people here and, you know, we would like to
48 help -- we're a statewide organization so we have to try
49 to get together and work together on a lot of different
50 issues that are concerning to us. I try to keep an open

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1 mind on different issues.

2

3 Like I said, that's all I have Mr. Chair.

4

5 CHAIRMAN LOHSE: Does anybody have any
6 questions for Gabe. Bob.

7

8 MR. CHURCHILL: Gabe, thank you so much
9 for coming. If you were to advise us, either in terms of
10 process or maybe a direction to take the customary trade,
11 either in your position as RuralCAP or individually
12 because I know the depth and breadth of your experience,
13 how would you advise us?

14

15 MR. G. SAM: Mr. Chair. Mr. Churchill,
16 at one of the task force meetings that I've gone to, I've
17 seen the representatives from the regions, you know, I
18 think it would be -- it would help a great deal if U.S.
19 Fish and Wildlife, the Federal Subsistence team would
20 include people that are from the -- elders from the
21 regions that are not U.S. Fish and Wildlife employees
22 because at the table there was U.S. Fish and Wildlife
23 employees but also serving as task force members. I
24 think if you want to get a better perspective on this,
25 have somebody there that's actually selling fish,
26 subsistence caught fish, that can voice their concerns.
27 As it was it was being voiced through me and I was
28 basically giving their explanation why they need this
29 subsistence caught fish, you know, to be sold.

30

31 So I think there needs to be more
32 communication with the villages and regions, regionwide.
33 There's a different perspective in every different
34 region. But there wasn't really, with all due respect to
35 the elders that were present, there wasn't really a
36 region by region elder base. You know, there was a lot
37 of U.S. Fish and Wildlife employees that were on Regional
38 Advisory Councils that were represented but I think it
39 could use more elders.

40

41 MR. CHURCHILL: Thank you. Could
42 RuralCAP, do you think, play a role in identifying those
43 elders throughout the state working with either the RAC
44 or the Subsistence Board?

45

46 MR. G. SAM: Mr. Chair. Mr. Churchill,
47 yes, we could. We have a database that we could use as
48 our reference and we could identify some elders that
49 would like to help. Actually that's what I came up with,
50 I just call people in different regions how do you feel

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1 about this and I called my uncle Sidney and I can't, word
2 for word say what he said, but, you can pretty much
3 imagine what he said, you know. And he had a very strong
4 feeling towards it. He doesn't want to see the resource
5 totally depleted but he wants to see the people also live
6 out there in rural Alaska.

7

8 MR. CHURCHILL: Thank you. That's all I
9 had, Mr. Chair.

10

11 CHAIRMAN LOHSE: Thank you. Sue.

12

13 MS. WELLS: I am interested in maybe a
14 general overview of what the elders at the summit had to
15 say or their feelings on this issue, if you could give us
16 just a general synopsis or summary of their major
17 concerns.

18

19 MR. G. SAM: Mr. Chair. Ms. Wells. I
20 think the overall feeling is that there's becoming more
21 -- I think more and more problems of people out there
22 that -- well, just for example, there's, for hunting,
23 there's a lot of people out there that are not really
24 experienced in hunting, you know, when they shoot
25 something they expect it to drop and in a lot of cases
26 that's not what happens. And so if you're shooting
27 something that's coming towards the nighttime that came
28 to the waters to drink and you shoot it and it runs back
29 in the woods, they go up there and they check and no
30 blood so they just leave. Well, what happens is later on
31 in the season we see all these crows flying around and we
32 find out there's a dead animal back there that's been
33 wounded during the hunting season.

34

35 We're currently monitoring what's
36 happening with -- we hear a lot of reports of guiding,
37 illegal guiding opportunities that's happening, not just
38 by non-Native people but by Native people. And how do we
39 handle that, just like anybody else, you break the law
40 you got to pay the crime, you know, that's the way it
41 goes. A lot of the elders feel that.

42

43 A lot of our younger people are not
44 practicing their traditional ways of life. They feel
45 there's too much inclusion of the western ways of living.

46

47 I like what one elder said is, you know,
48 one day of hard work is nothing, you know, compared to
49 living all winter without food. And these young people
50 don't understand that. You know, I'm old enough to know

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1 what hard work is about, growing up in a family of seven
2 being the oldest, I've worked since I was like seven
3 years old worked right along side of my dad until I went
4 off to high school. So I know what work is about, hard
5 work. You know, waking up early, but, you know, these --
6 and I must say my son's included, you know, even though
7 he's five years old, I don't expect him to be running out
8 in the woods following me around after a wounded moose or
9 anything but I want to teach the values of what hard work
10 means and to discipline himself and to respect other
11 people as he would like to be.

12

13 I think that was the flavor of the whole
14 summit that we got from the elders, a lot of knowledge --
15 and this document here, you know, it's just pages of
16 pages of what they feel should be done. A lot of
17 traditional ways of knowing the land, the people that
18 lived out there for years, you know, all their lives
19 basically. They know every good place to hunt, fish,
20 trap, you got to tap into that knowledge, you know, and
21 not just -- I guess they feel that because they don't
22 have a college education that it's not credible and I
23 think that notion has to be put to rest, there's a lot of
24 information out there.

25

26 CHAIRMAN LOHSE: Any questions.

27

28 MS. WELLS: No, thank you very much.

29

30 CHAIRMAN LOHSE: Thank you, Gabe. I got
31 a couple questions and comments to make. The last
32 subject that you brought up about the one day's hard work
33 and the hunting.

34

35 One of the concerns that I hear expressed
36 by a lot of the, I'll use the word elders, they might not
37 be elders, they might not be old enough to be elders but
38 the people that I consider actual subsistence users in
39 the Interior, is that, the competition that they have
40 with the people that have the money to have the
41 technology, the people that come from town with the ATVs
42 and all of the rest of the stuff that compete directly
43 with them where they're going to have to pack it out on
44 their back and instead they're running competition with
45 people with equipment and everything that they can't
46 afford to have where hunting used to be something that
47 you went and did and you worked at it and now it's more
48 like play and you have the equipment to do the work for
49 you. I know that's one of the concerns up in Unit 13,
50 they feel that the people with the equipment drive the

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1 animals back so that it's hard for the people without
2 equipment to get it.

3

4 Was that a concern that seemed to come
5 out in some of the topics in talkings that you had with
6 the elders up there at RuralCAp?

7

8 MR. G. SAM: Mr. Chair. One of the
9 stories I heard was a moose hunter, had a three level
10 boat that had like a bottom boat and a top boat and
11 another level boat and it's illegal to use a high powered
12 light for hunting in the dark, it's unfair advantage for
13 the animal and again if you just wound an animal you
14 can't look in the pitch dark after a wounded animal
15 unless you're crazier than I am, but one hunter saw this
16 boat come around the bend and you know how you see the
17 smoke from the gun before the -- and so when the boat
18 landed -- hit the bank, this ramp came off the boat and
19 three wheelers just shot out from the boat like they were
20 -- the elder was definitely impressed that they have this
21 kind of technology for hunting.

22

23 You know, nobody said that -- he
24 indicated that nobody said we had to still hunt with bow
25 and arrows and stuff but there should be some fair
26 process and the animal, you know, having the -- and using
27 night scopes. You know, while I was in Huslia, I saw a
28 \$2,600 night vision scope. In all my life I never saw
29 nothing that high tech. You look through it and it's
30 basically -- it's like bright as day. You can see just
31 clearly. I was really impressed with that.

32

33 You know, I think the hunting equipment
34 is getting more intense and one of the hunters we
35 encountered had a 50 caliber single shot rifle. What in
36 the world are you going to hunt out there, you know,
37 Godzilla hasn't escaped any time soon but it just amazes
38 me the weaponry that is available that they use for
39 hunting, you know.

40

41 I don't know, they just feel that there's
42 an unfair advantage that's happening out there. The
43 hunting ethics has gone out the window.

44

45 CHAIRMAN LOHSE: That's kind of the
46 impression that I've got is it's not only just the ethics
47 but it puts those that are more of a subsistence user at
48 a disadvantage because that 50 caliber rifle, I, would
49 imagine the guy figures that he can shoot moose at six or
50 700 yards with and just like you said, a wounded moose

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1 that doesn't drop, I doubt if he goes a half a mile away
2 to go see if he's hit it or not, you know, that's the
3 idea behind that single shot 50, is that, you know, those
4 rifles are thousand rifles. Well, you can't tell much at
5 a thousand yards whether you hit something or not unless
6 it drops on the spot.

7

8

9 Do we get a copy of that report?

10

11 MR. G. SAM: Not at that this moment.
12 We're still in the rough draft stages. Under the rules,
13 I guess, we have to contact each and every person that we
14 quoted, is that correct and accurate to what they said
15 and so we want to make sure that's correct before we hand
16 it out. But, yes, you will be getting a copy.

17

18 You know, like I said before, there's
19 going to be more and more hunters out there. For
20 example, Huslia, it's no big secret that has the highest
21 dense population of moose ever in the state of Alaska,
22 has the record -- there's like a number of records that
23 came out of Huslia in bull moose, like, you know, and
24 four years ago at one given point in time there was 1,200
25 hunters on the Koyukuk River, 1,200 hunters. There's a
26 place called Three-Day Slough, the first day season opens
27 up, just like a whole village pops up, about 100 people
28 or so just camped all the way down this one place waiting
29 to get back into Three-Day Slough. Now, they have what
30 they call a drawing permit because we worked very hard
31 with the Board of Game to establish a drawing permit hunt
32 for the area. But still there's pressure.

33

34 And, you know, one message I would like
35 to send to the guiding industry is there's certain guides
36 out there and I'm not going to name names, but there's
37 certain guides out there that's making it look bad for
38 other guiding industry -- for the guiding industry.
39 Their ethics, you know, there's questions of ethical
40 violations, endangered species, like, you know, shooting
41 a seagull saying, well, it's going to do a spawning
42 stream some good so they just shoot seagulls. And that's
43 happening up there in the Interior. I've talked to
44 different guides like Rob Holt, you know, to see what we
45 could do to help them get these guides in line because I
46 know they have an association, you know, Rod Arnold, I've
47 spoken with him. We filed complaints with U.S. Fish and
48 Wildlife, we even sent letters to Cam Toohey and what
49 they say, oh, take it up with your Refuge manager in that
50 region, it's their jurisdiction. Well, I'm sorry, but

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1 you're their boss, you know. And so you have to hold
2 your people accountable to take an action. There's been
3 nothing done to this day. So who else do we talk to?
4

5 You know, I think that's what makes it
6 bad for local people when they say it's those guides
7 that's doing all the damage. I know for a fact that it's
8 not all guides that's doing all the damage. There's a
9 few guides out there that's not doing their fair share of
10 protecting the resource, you know, it's that almighty
11 dollar, that's what's guiding them.
12

13 You know, when you catch 40 or 50 moose a
14 year at 10 or \$12,000 a pop, of course, you're going to
15 protect your interests and your business. And what they
16 do to divide the community, you know, hire local key
17 leaders in the community because nobody's going to oppose
18 them, there's definitely ethical violations. So I don't
19 know what's going to happen with that but I assure you
20 we're working on it.
21

22 CHAIRMAN LOHSE: Is there information
23 like that in that report, Gabe? Is there comments on
24 things like that in the report?
25

26 MR. G. SAM: Yes, there is. Yes.
27

28 CHAIRMAN LOHSE: That's what I was
29 hoping. And comments on customary trade, that will be in
30 there, too? Elders opinions and comments on customary
31 trade?
32

33 MR. G. SAM: From one particular elder I
34 believe there is, yes.
35

36 CHAIRMAN LOHSE: Thank you. And on that
37 customary trade task force, Gabe, I know there's an
38 impression that RAC people work for Fish and Wildlife
39 Service because I know there were members from Councils
40 all over the state on there, people on these Councils are
41 not Fish and Wildlife Service employees. We don't get
42 paid by Fish and Wildlife Service. We don't work for
43 Fish and Wildlife Service. Most of us have to find some
44 other way to make a living than to work for a government
45 entity. So a lot of the people, there were a lot of
46 Council members or Council member appointees on that
47 customary trade thing and there were a couple of paid
48 employees but most of the people there were just like the
49 people on this Board right here. They were not working
50 for Fish and Wildlife Service.

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1 MR. G. SAM: Mr. Chair, if I indicated
2 that, you know, this customary trade task force has been,
3 you know, dominated by the RACs, I apologize for that.
4 What I meant to say was I think more elders from the
5 region and the villages should be on this task force. If
6 it's something that's going to affect their interests and
7 their way of life so drastically that they've been doing
8 for, God, I don't know how long but forever, I know
9 there's been a lot -- ever since I was a kid growing up
10 in Huslia, we used to get a lot of fish from Galena and
11 Nulato and the villages, they come up and sell us fish or
12 trade for moose meat and whatever we had, so -- but I
13 just felt that the balance of the task force wasn't
14 equitable for the different regions, especially the
15 Interior, so that's what I meant.

16
17 CHAIRMAN LOHSE: Thank you. Bob.

18
19 MR. CHURCHILL: Yeah, a couple possible
20 clarifications. And I know your experience and I really
21 appreciate your being here and it sounds like you've
22 talked to the APHA and a variety of people dealing with
23 the guiding industry and to no avail. What's your
24 thoughts if we were able to reestablish the guide board
25 that actually had some power over guiding? Do you think
26 that could possibly be helpful in addressing some of
27 these issues?

28
29 MR. G. SAM: Mr. Chair. Mr. Churchill.
30 Actually I was looking in on that, I'm in the rural
31 development master's program and I'm considering for my
32 thesis, a part of it is the effects the guiding industry
33 has on the ability for subsistence hunters to be
34 successful. That's a part of my thesis. And a part of
35 that, I understand there was a board for the guiding
36 industry before, whatever happened to that I don't know,
37 I haven't gotten that far into my research. But talking
38 to -- but I've spoken to a number of guides and they're
39 all for it. And they do agree that there is some guides
40 out there that have gone way beyond their abilities to be
41 fair. Not just to the guiding industry but fair to the
42 communities.

43
44 There's been agreements made with tribal
45 councils, they have been broken. Just to get their foot
46 into the door of the unit that they wanted to hunt in
47 they made agreements with the tribal councils and they've
48 broken that agreement and now there's a separation.
49 They've been established in there for 10 years or so and
50 it's just pure frustration trying to work with the system

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1 and, you know, the village -- the tribal councils just
2 feel that they're hollering but nobody's listening.

3

4 But fortunately we have a lot of good
5 people that are willing to help, like this forum here.
6 Like I said, you know, I have nothing against the guiding
7 industry. I believe that it's good for the state to have
8 a strong economy and by providing employment for rural
9 people in rural Alaska it also provides a stable economy
10 in rural Alaska. But there is a point where you're going
11 to have to say, is the almighty dollar worth more than
12 destroying one resource for a few bucks. I mean look at
13 the Yukon Flats, they have, what, 1,200 moose for the
14 whole Yukon Flats. They're on some kind of system where,
15 that they can only take so much moose. Ft. Yukon has 800
16 people, if everybody was allowed to catch a moose in Ft.
17 Yukon that would be the end of the moose in Yukon Flats.
18 The people in the Interior do not want to see that happen
19 in Unit 24. That could easily be devastated.

20

21 Also with the wolf issue, you know, bear
22 taking a lot of calves in the springtime, there's a
23 number of factors that need to be weighed in.

24

25 I guess we -- or not, we, but I agree
26 that this board, this guiding board could best serve the
27 resource and the people.

28

29 MR. CHURCHILL: Thank you. And if you
30 wanted to talk a little bit about it, I have some of that
31 history as well as why the guide board went away.

32

33 One follow-up. When you talk about
34 guides, do you make any difference in your discussions, I
35 know a lot of time the discussion actually not only
36 involves guides as we normally think about them but the
37 transporters, the folks that's whole business is aimed on
38 volume rather than the individual hunt. Is generally, do
39 you get the feeling that when they talk about guides
40 they're also including the transporters in on that
41 discussion without making a real difference in the two?

42

43 MR. G. SAM: Mr. Chair. Mr. Churchill.
44 From what I understand and what I've observed and
45 experienced, there's really no difference between a guide
46 and a transporter. Who's out there watching over the
47 transporter that he's not guiding a client, you know? We
48 really don't see any difference there. It's just I think
49 actually they should do away with the transporter system,
50 there's no way to regulate it. There's no -- other than

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1 the Refuge manager that's overseeing the guide and his
2 practices, there's nobody out there that checks up on
3 them -- well, no, I take that back, there is somebody
4 that checks up on them but they have such a big area to
5 work with, they can't specifically look at this one
6 person and say well this guy, you know, there's been
7 numerous cases that have been brought forth that has been
8 dropped due to lack of evidence.

9

10 I think that's something that the board,
11 you know, if it's reestablished that could look at, how
12 to regulate the transporters, because at these drop offs,
13 you know, use of airplanes, last year on 9/11, I was in
14 Huslia when that happened, there was a Super Cub that was
15 being used as transportation by this guide that's in
16 question. He uses that plane as a spotter. You can't
17 tell me that you can find a trophy moose a mile and a
18 half off the river and say, oh, we just walked to that
19 lake and found this lake and that's -- you know, you got
20 to be the greatest hunter ever if you can do that. And
21 you know, we brought that forth to the agency and
22 nothing.

23

24 You know, we have pictures, video takings
25 of this Super Cub flying in a restricted space that it's
26 not supposed to be in but they say, well, that video
27 could be taken anywhere in the state of Alaska.

28

29 So transporters is a big problem.
30 There's been a lot of citations issued in the region that
31 we know of. So there has to be some kind of enforcement
32 on that.

33

34 MR. CHURCHILL: As a follow-up. Do you
35 think it would benefit if the penalties for those
36 violations were dramatically increased, say, confiscation
37 of aircraft and those things actually came to be?

38

39 MR. G. SAM: Mr. Chair. Mr. Churchill.
40 I think if you want to really clean up the industry
41 you're going to have to set some real strict guidelines.
42 You know, I see in the paper, in the Anchorage paper of
43 people being busted for illegal taking of grizzlies and
44 they're fined like \$1,200 and, you know, they're -- the
45 skin that they got is confiscated, you know. I don't
46 think -- you know, like what's happening now with, you
47 know, drunk drivers, you know, if you're caught drunk
48 driving and this is like your third offense or so your
49 car is taken. And that would send a clear message to
50 anybody that's going to drink and drive, hey, I don't

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1 want to lose my car, vehicle, you know, I just bought
2 this thing.

3

4 So in all fairness to the resource, you
5 know, if you're going to do illegal activities, you know,
6 there should be a strong penalty for that. I mean if
7 you're going to go out there and try to illegal guide or,
8 you know, just I have a lot of friends from the lower 48,
9 for example, my wife is from Denver. Her uncles want to
10 come up to Alaska to go to Huslia and hunt moose with me
11 and I say, no, I just don't do that. And all they want
12 to do is go out there and experience what it's like to be
13 -- they have not a clue, I mean I hate to say that about
14 my in-laws, but they have not a clue what it's like to be
15 out there in the country and just enjoying being free,
16 just basically, you know, there's no cell phones, no fax,
17 no boss to tell you what to do other than your wife or
18 your kids.

19

20 (Laughter)

21

22 MR. G. SAM: It's just freedom, you know.
23 And I just don't see that I have to take them out there
24 to, you know, even though they don't pull a trigger I
25 reserve that time for my family and my dad and my uncles,
26 to go out there and spend that quality time for them, I
27 don't take it as a game. It's not a -- I don't even
28 consider it a sport, you know.

29

30 Under the subsistence regulation I caught
31 a 65 inch rack, I had no problem cutting through the palm
32 of the antlers, it meant nothing to me. What I brought
33 today, some moose ribs and some moose dry meat we made
34 the smokehouse -- my mom's smokehouse, that's what we
35 were after, that's the trophy for me, that's going to
36 feed my family throughout the winter. That rack, they
37 can grind it down to whatever they want to but, you know,
38 it just has no value to me. You know, it's something the
39 moose use for protection and fighting in the fall time,
40 that's all it means to me.

41

42 MR. CHURCHILL: Thank you very much,
43 that's been real helpful.

44

45 CHAIRMAN LOHSE: Thank you, Gabe. Is
46 there any other questions for Gabe.

47

48 Thank you. And we're looking forward to
49 getting a copy of that report. Fred.

50

00030

1 MR. ELVSAAS: Just a comment, you talked
2 earlier about the local people having problems accessing
3 the game because of the ATVs and so forth chasing the
4 game back further, further back. At Ninilchik this year
5 and I don't know if they did it prior but I know this
6 year they did, they had part of the season where there
7 was no vehicles allowed. Possibly maybe you should look
8 at trying to get regulations where you could have maybe a
9 week with no ATVs in the hunting area. I don't know how
10 that would fly there but in the case at Ninilchik it's
11 private land, Native land, and they enforce it with gates
12 and so forth. But it seemed to work very well. And when
13 you shoot a moose there you pack it out. And that seems
14 to work pretty well. But unfortunately in their case,
15 they did the no vehicle hunt in the middle of the season
16 so there were vehicles early and later running the
17 animals and so forth. But that's one way of doing it and
18 you might want to look at that in your efforts here.

19

20 Just a comment. Thanks.

21

22 CHAIRMAN LOHSE: Gabe.

23

24 MR. G. SAM: Mr. Chair. Mr. Elvsaas.

25 They have a window of opportunity for subsistence hunting
26 that's like 10 days before the regular drawing permit
27 hunt.

28

29 I think it's so much when the regular
30 hunt opens there's all this traffic back and forth and
31 once you scare the moose back into the lakes, they pretty
32 much stay there and won't come out until late in the fall
33 when they come out to the river. And so a lot of the
34 local subsistence hunters end up walking back to the
35 lakes and they, you know, use packboards or whatever, to
36 carry out the moose because they don't want to ruin the
37 moose's path back to the lake. They want to keep it
38 intact how it's -- they use it, the animals use it.

39

40 But when you have these six wheelers and
41 eight wheelers, they really rip up the ground. It really
42 does a lot of terrain damage and when it washes out, it
43 washes out great chunks of the -- makes it all slushy and
44 the animals really don't like that, you know, I don't
45 know if I had to walk in slush every day, that wouldn't
46 feel good.

47

48 But I think the impact is there but, you
49 know, and the agency, ADF&G is trying to help. They are
50 definitely trying to help. I work very closely with them

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1 in discussions and I know they're trying to help but like
2 I said the system is frustrating. I don't want to place
3 blame on anybody but it could be more user friendly.

4

5 I am a strong believer, you know, even
6 the big cheese himself has to be held accountable, you
7 know, for his employees. If you had an employee that was
8 not doing his job, you know, would you still keep him
9 employed? Business sense says no.

10

11 I don't know it's just something that
12 we're going to have to work on.

13

14 Thank you.

15

16 CHAIRMAN LOHSE: Thank you, Gabe. Any
17 other questions. Thank you.

18

19 Well, I have two more people here for
20 public testimony, maybe we should have a stretch break.
21 Five minutes to get a cup of coffee.

22

23 (Off record)

24

25 (On record)

26

27 CHAIRMAN LOHSE: I'll repeat, please sign
28 in. There's more people here than there are signatures.
29 Some of you forgot.

30

31 Well, in the interest of moving this
32 speeding along so we can get back to the important things
33 of fall, we'll try to keep our breaks to a minimum and
34 we'll try to get back on task as fast as we can. I've
35 got two more public testimony. Wilson, would you like to
36 testify first. I know the only reason Wilson's here is
37 all hunting seasons are closed up that way now.

38

39 MR. JUSTIN: Thank you for the
40 opportunity to testify. I always appreciate public
41 testimony in these proceedings and I especially
42 appreciate listening to Mr. Gabe Sam speak about some of
43 the things that are close to my heart.

44

45 I have some general comments on customary
46 trade and a few other items.

47

48 But I'd like to pick up a bit on some
49 issues that Mr. Gabe [sic] was bringing up in terms of
50 guiding. The guiding industry, my family are second

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1 generation guides. We came up in that business and it
2 provided a pretty good livelihood for my family up until
3 I was in my late 30s. I got out of the guiding business
4 in 1983 because it had changed from what it was to what I
5 could not agree with. And I gave up my license finally
6 AA58 in 1998.

7

8 There's two legacies that the guiding
9 business left us. One is what we call the game
10 management unit boundaries. It's not known in general
11 that the original game management unit boundaries were
12 provided for and agreed upon by the guiding industry to
13 protect our cash crops which was sheep and grizzly. It's
14 no secret or it should be no surprise to anybody who
15 researches the game management unit boundaries that Unit
16 13 is so large and located where it is. Unit 13 was put
17 in place to draw attention away from the mountain areas
18 where the guides made their livelihood by sheep and
19 grizzly bear hunting. And the legacy of the game
20 management unit boundaries by and large left us with some
21 very large issues regarding subsistence hunting. And I
22 have always advocated changing the game management unit
23 boundaries to look at sustained yield and to accommodate
24 subsistence hunting.

25

26 The present game management unit
27 boundaries were only put in place for economic reasons,
28 no other. And so long as we have those game management
29 unit boundaries, like it is, we will never be able to
30 accommodate subsistence uses and sustained yield. And I
31 don't know whether or not the general public ever
32 realized that but that's part of the equation that drives
33 the chaos and the turmoil in a subsistence equation.

34

35 The second legacy that the guiding
36 industry left us was the -- is and continues to be the
37 inability of the agencies of the state to properly manage
38 game. Because the guiding industry had such high demand
39 for economic returns on their efforts and because the
40 guiding industry was so shot through with the taking of
41 game without proper recovery of the meat, that was a part
42 of the game taking, the only solution that the guiding
43 industry could live with was more game.

44

45 So we've had an arbitrary high, very high
46 and very capricious high shackles of game over the last
47 45 years and that is rooted in the philosophy of bringing
48 lots of game to the forefront so the guides can make
49 their living.

50

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1 I don't believe in the Fish and Game's
2 philosophy today in terms of their management of the fish
3 and game, the resources that they live with because they
4 are not managing the game to accommodate sustained yield
5 and to accommodate subsistence uses. They are managing
6 the game to keep quiet their biggest users and consumers,
7 which is the sports industry. All we did was change from
8 guides to sports, we didn't change the philosophy, we
9 didn't change the management, we didn't change the
10 practices. So all we have today is the same philosophy
11 that was in place in the 40s when the U.S. Fish and
12 Wildlife used to poison wolves and bears to keep the
13 competition down in terms of predator-ship for the big
14 game guides. So nothing's changed in terms of philosophy
15 and if we don't change that philosophy that's what we're
16 going to end up with is nothing.

17
18 The population crashes are going to be so
19 severe that eventually all you'll be dealing with is
20 emergency openings and emergency closures.

21
22 So those are the two legacies that the
23 guiding industry left us. And neither one of those
24 legacies is worth anything to remember them by. And like
25 I said, I'm second generation guide, my family made an
26 honorable living in this business for well over 30 years.
27 All of my uncles and aunts, all of my cousins. I had 11
28 cousins that worked with me in the guiding business in
29 the '70s. We tended to look at the guiding industry not
30 as a business but as providing comfort and security for
31 the way we lived and the way we thought. Well, that
32 ended by the late '70s.

33
34 And my only passing comment on the issue
35 is that if the guiding industry is going to continue, the
36 only way they're going to ever practice taking game,
37 ethically and legally is to stop using planes. They have
38 to get away from their addiction to airplanes and then
39 the guiding industry might be able to mount a comeback in
40 terms of what it originally was.

41
42 So that's my sermon for the morning.

43
44 I'll go on to my other general comments.

45
46 I have said over the years off and on and
47 in innumeral public meetings and innumeral one on one
48 discussion with people of all stripes and backgrounds is
49 that one of the problems we face in dealing with the
50 activity such as customary trade is the limitations of

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1 the English language to describe what it is that we're
2 talking about. So I'd like to take a few moments, with
3 the permission of the Chair, to talk about some cultural
4 items that are very relative to the discussion in terms
5 of customary trade.

6

7 My background, or the professional field
8 that I am in is health. Mt. Sanford Tribal Consortium is
9 actually a health organization with quite a bit of
10 environmental and educational funding. My title is vice
11 president of Mt. Sanford Tribal Consortium. And most of
12 my dealings in the professional field is with health
13 issues and nutritional issues which will segue a little
14 later into what we're talking about in terms of
15 subsistence .

16

17 I do subsistence directly as a function
18 of my position as a council member of Chisna Tribal
19 Council and I do subsistence in terms of direct and
20 personal interest. A lot of times by request by other
21 tribal councils because they seem to like the fact that I
22 can articulate issues with relative ease and I think
23 that's a gift that was given to me. I certainly did not
24 develop it myself.

25

26 But I'd like to speak a bit about several
27 items that we need to think about when we talk about
28 things like customary trade.

29

30 I'm going to begin with the term called
31 tradition. Now, traditions are invaluable. They are
32 passed down generation to generation by selected members
33 of each clan, usually great uncles. It was my great
34 uncle that taught me about clan traditions. They are not
35 interpreted and they are not changed by any member of
36 that particular society. They are above and beyond
37 reproach or change. On the other hand, customs -- well,
38 I should end by saying traditions is the way clans
39 protect and preserve their interacting uses in a
40 geographical basis and also how they reciprocate in terms
41 of wrongs committed against each other or within the
42 clans. So tradition is the governing law for a lot of
43 our activities, particularly potlatches.

44

45 Customs, on the other hand are
46 regulations that individuals use to self-govern.
47 Traditions don't change but customs do. Customs reflect
48 the immediacy of the every day life. So in 1890, the
49 custom will evolve by 1920, by 1940, they're self-
50 regulatory in terms of the kind of self-governance that

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1 you would use to function in an every day sense. Our
2 customs would correspond to your regulations. So your
3 regulations come in and out of play and in terms of when
4 you find somebody who violates that regulation and
5 regulations can be changed by law or by consensus of the
6 public or they can be ignored wholesale and nobody
7 enforces them. Our customs are a lot like that.

8

9 But except for that our customs are self-
10 regulatory. Children are taught customs and they are
11 expected to adhere to them until they are told different.

12

13 The last big issue that I want to bring
14 to your attention is laws.

15

16 Now, here is where we drastically part
17 company from the Indian culture and the western culture.
18 The western culture uses laws in a written manner as a
19 way to govern man and it's written by man. In Indian
20 culture, laws are adhered to and practice for the sole
21 reason of making sure that the Creator's place in our
22 every day life is secure. And it's so important to us
23 that I'll repeat it. Laws that you hear, the older folks
24 the elder's talk about are not laws in a man made sense,
25 they are laws designed for the sole purpose of keeping
26 the Creator in our lives on a daily basis so they're
27 immutable. And that is why we have so much problems
28 talking about laws because when you talk about laws
29 you're talking about laws written by man to govern man in
30 an every day sense and laws are judicial, in our society,
31 laws are sacred, they're secular. They have tremendous
32 spiritual and religious overtones. And because they have
33 that religious overtones, you're asking almost an
34 impossible price of elders and traditional people of
35 breaking their own laws in order to observe yours. And
36 that conflict is what's creating so much stress in
37 today's process.

38

39 You will never find an Indian who's
40 willingly going to break anybody's laws. They have too
41 much respect for laws. But you can never ask an Indian
42 to break his own law in deference to western law because
43 then he's saying, well, man's law is equal to the
44 Creator's law and you cannot do that.

45

46 So I wanted to bring that to your
47 attention because every few years you have such a change
48 of people in this process that it's good, in my
49 estimation, to keep that reminder on the table why we
50 have such a conflict in terms of the understanding of the

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1 process that you undertake. And I have to thank all of
2 you for the tremendous patience that you have to go
3 through this process over and over and over again. And I
4 know that it's difficult at times to follow obscure
5 reference to customs and to laws in a way that doesn't
6 make sense to you because you weren't raised in it. But
7 I'm bound by our tradition to tell you this because I
8 speak for a lot of people.

9

10 And I do want to mention something else
11 in terms of tradition and practices and uses, I was about
12 12 years old and I was up there on the Nabesna Road and a
13 hunter had come into my step-father's camp, Lee Hancock,
14 was an avid fisherman, probably even more interested in
15 fishing than he was in hunting and my step-father who
16 passed away in 1988 said, these kids, all of these kids
17 here know where all the fish are, you just have to grab
18 one of them and they'll take you exactly where you have
19 to go. So I took this person down to the lake and showed
20 him the grayling spot and he went down there every single
21 morning and every single evening to fish and he just
22 enjoyed himself immensely. When, as a part of the deal
23 that he made with me, he taught me how to fish with a
24 bamboo pole and I began to really enjoy myself, I thought
25 that was basically as good as it was going to get. About
26 a year later I still had the pole and I was down on the
27 lake fishing and my great uncle, Houston Sanford came by
28 on the road and he saw me down there fishing, and he
29 didn't say anything but a day or so later when he left he
30 kind of pulled me to the side, I was 13 then, he said,
31 you know, in our way you can be anything you want to be
32 and nobody's going to bother you, it's up to you, but if
33 you choose to be Indian you have to remember one thing,
34 we don't play with fish, that's one of the many, many
35 laws that we have, that we don't play with fish. And
36 this is what sports fishing is to Indian, when you catch
37 them on the hook and you bring them in, it's playing with
38 them. And it violates the law that we have about the
39 Creator having a place in our every day activities. I
40 put that bamboo pole aside in 1963 and I never touched
41 another fishing pole again. And this is 2002 and I have
42 never caught a fish on a line since.

43

44 But my daughter who is 12 and this is
45 where we're talking about the change that we have to deal
46 with, who enjoys fishing, she has caught a number of
47 grayling on the line with a fishing pole I bought her.

48

49 So it's very obvious when you see things
50 in this context that customs, traditions and practices

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1 have a real mix in our society. If you have people like
2 me who are traditionalists, who were raised in traditions
3 and customs, refuse to break those traditions but because
4 I also know that every person has the absolute right to
5 choose their place in their life I would not impose those
6 traditions on my daughter without her consent and that's
7 the key. No Indian ever will impose their will or their
8 way on another without that other's consent. And that is
9 why the western law falls so short of Indian law. That's
10 why we self-govern so easily because we won't impose what
11 we believe on somebody else.

12
13 That's why the whole question of
14 subsistence was so hard to deal with. You came to the
15 Indians and you said, what's subsistence mean to you?
16 Well, subsistence isn't a word that you can deal with in
17 terms of what life means to an Indian because life is all
18 about keeping a place in your every day activity for the
19 Creator. And however you choose to call the Creator is
20 up to you and whatever way you wish to worship is up to
21 you but to the Indian it's set in your every day life.

22
23 I wanted to bring that up and I
24 appreciate your indulgence and I hope that it clarifies
25 some of the issues related to how Indians view
26 subsistence.

27
28 I'd like to speak a bit about customary
29 trade. About a couple of years ago our council was
30 speaking about customary trade and again, I would like to
31 thank Mr. Gabe Sam for speaking to the issue in terms of
32 the elders because that's what we ended up talking about
33 in terms of customary trade. With what I said about
34 traditions as a back drop, my own take on customary trade
35 is that you really need to look at who it is you want to
36 serve in terms of this particular practice.

37
38 If you want to serve the sportsman,
39 forget about it, you're going to be fouled up in all
40 kinds of different kinds of interpretative analysis with
41 that.

42
43 If you want to serve the general public,
44 again, same thing.

45
46 But if you want to serve the people who
47 are the backbone of communities, the people who keep
48 things together out in the rural arenas then you have to
49 look at customary trade in terms of -- and I've heard
50 several people now mention a percentage of what you would

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1 consider a take and I think Fred spoke to this a time or
2 two.

3

4 What we said at the council meeting
5 several years ago is that if customary trade is going to
6 be regulated it should be regulated to the favor of the
7 people who need it the most, which are the elders who
8 have to take care of grandkids. And they're the ones who
9 have limited skills in terms of finding jobs and they're
10 the ones who have the most limited income of all. So if
11 you're going to regulate customary trade, you should
12 regulate customary trade in favor of those people who
13 need it as a highest and best priority of use. Not for
14 people like myself, I have several trades. As a matter
15 of fact, customary trade to me would be almost like
16 theory. Because I can do so much more and so much better
17 in terms of obtaining goods. I have a driver's license,
18 I read well, I can use the telephone, I can use the
19 Internet, I can order, I have all the amenities of modern
20 life. So to me, customary trade would be like double-
21 dipping, taking something twice and that's very selfish.
22 Of course, I wouldn't do that because I would violate my
23 own sense of where I am. But I wanted to use that as an
24 example.

25

26 I pulled the number of 15,000 out of the
27 air one time when somebody said what's customary trade
28 mean to you? And I just said \$15,000 a year, that's the
29 limit that -- anything from zero to 15,000 a year in say
30 a family of four should be considered customary trade
31 irregardless of the resource, salmon, moose, caribou,
32 whatever, you know, you use moose skin, what have you.
33 And somebody said that's an awful lot of money. And I
34 said, I want to tell you a little story. My generation,
35 I'm 52 years of age, my generation is on the tail end of
36 some enormous, enormous trauma, alcoholism, substance
37 abuse, domestic violence, sexual abuse, you talk the
38 problem, we got it.

39

40 The generation that I represent and I
41 deal with has almost no connection to their children.
42 The only connection they have is with the grandparents.
43 The only thing that even remotely resembles a family is
44 with their grandparents. And if there's any one thing
45 that I would want to do in this customary trade, I would
46 like to represent those grandparents as much as I
47 possibly can in this process because they get nothing
48 else out of life. All they have is their love for their
49 family and their traditions and their tribal history,
50 nothing else. They aren't paid anything else. So if

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1 there is one group of people that is never represented
2 here, it's these elders, who have to take care of the
3 genesis of the family that's still left. My generation
4 don't come out here and do what I do, they don't go to
5 work in the morning at 8:00 o'clock, they don't have
6 credit cards, they don't like to talk to people, they
7 don't want to see people, they don't want to be around
8 the public, they like to stay way out of sight and you
9 cannot blame them for the emotional trauma that they've
10 had to contend with.

11

12 We had a meeting several years ago,
13 Alaska Native Health Board and the state of Alaska
14 director for Division of Alcoholism and came out and
15 said, it costs the state of Alaska \$600 million a year to
16 deal with the impact of alcohol and substance abuse.
17 Well, I say if we took the subsistence and threw a few
18 bucks to the benefit of the people who were at the tail
19 end of that \$600 million, I bet you we would lower that
20 \$600 million by half in the next 25 years and there I
21 would like to leave it.

22

23 So I thank you again for the time that
24 you've always offered us in terms of testifying and I
25 really appreciate listening to the give and take in terms
26 of the process.

27

28 Thank you.

29

30 CHAIRMAN LOHSE: Any questions for
31 Wilson?

32

33 MR. CHURCHILL: I have a question.

34

35 CHAIRMAN LOHSE: All right.

36

37 MR. CHURCHILL: Yeah, I really
38 appreciated your comments and some of the fine lines
39 you're drawing. They've been and, I anticipate will be
40 real helpful, thank you so much.

41

42 MR. JUSTIN: I thank you.

43

44 CHAIRMAN LOHSE: Any other questions for
45 Wilson. Fred.

46

47 MR. ELVSAAS: Yeah, it's interesting, I
48 hadn't thought about it before the differential of the
49 elderly needs where they basically need to derive some
50 income to subsistence uses, talking about the salmon

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1 strips and so forth and sale. I could thoroughly agree
2 with that but what I'm afraid of is these hot shots that
3 want to get into commercial sales. And you wouldn't see
4 that with elderly people, so I don't know if it's
5 possible to do some kind of a break there where us
6 elderlies could sell more.

7

8 (Laughter)

9

10 MR. ELVSAAS: But it's an interesting
11 thought, thank you.

12

13 MR. WILSON: Well, it's true that you
14 would run into the constitutional issue of equal access
15 to the resources in terms of trying to develop a way for
16 the elders to be the first and foremost participant. But
17 I have seen nothing in the American law that says we
18 could not give priority use in terms of customary trade
19 to elders as long as it's not, you know, totally
20 exclusive.

21

22 CHAIRMAN LOHSE: Wilson, I've got a
23 comment. I really appreciate what you've said. It's
24 interesting because much of our culture, our White
25 culture claims to have basis in laws that don't change,
26 too, but it doesn't live that way. And one of the things
27 that goes right along with what you said, there's a verse
28 in the book that much of our culture uses, it says, it's
29 better to obey God rather than man, and that's exactly
30 what you were saying. You were saying it's better to
31 obey the Creator, the laws that's there rather than the
32 current law that somebody else wrote. That sometimes
33 current laws conflict the basic laws and that's where
34 everybody has to make a choice, which law is the highest
35 priority to them.

36

37 MR. JUSTIN: Well, I appreciate the
38 comment because one of the things that you find out with
39 our elders is that the pain that the conflict causes is
40 very great because their first allegiance is to the
41 Creator. But also under the Creator's rule is that you
42 must always respect your fellow man and adhere to the
43 theorem that you don't impose your will nor do you do any
44 harm to your fellow man on this planet. So you have two
45 irresolvable points to contend with at the level of the
46 elders. And I have to sit with them when they deal with
47 this trauma or in terms of what I would call personal
48 turmoil. They have a great deal of anguish over this.

49

50 To a younger person like myself, it's a

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1 little easier to deal with the conflicts. We're more
2 practical in terms of immediacy. So I tend to resolve
3 the conflict on the basis of the final answer is when I
4 pass on to the next world, maybe he'll forgive me today
5 for ignoring him. But it's easier for a younger person
6 like myself to get past this personal anguish but it's
7 not fair and it's impossible to ask an elder to do so.

8

9 CHAIRMAN LOHSE: Do you find that the
10 next generation has even less problems than your
11 generation?

12

13 MR. JUSTIN: Yes. Yes. Correspondingly,
14 as time goes on each succeeding generation has less
15 connectivity to the original traditions and practices
16 that were taught by the elders and that's another source
17 of great anguish.

18

19 CHAIRMAN LOHSE: The elders.

20

21 MR. JUSTIN: Yes.

22

23 CHAIRMAN LOHSE: Just like it is to
24 parents.

25

26 MR. JUSTIN: Absolutely.

27

28 CHAIRMAN LOHSE: Thank you Wilson. I
29 always enjoy listening to you.

30

31 MR. JUSTIN: Thank you.

32

33 MR. RENNER: Thank you, Mr. Chairman for
34 allowing me to speak today and thank you to the Council
35 for coming to Cordova.

36

37 In my first comments I am representing
38 the Copper River/Prince William Sound Advisory Committee.
39 We're a State committee dealing mostly with State Fish
40 and Game issues and local harvest issues on the
41 subsistence commercial and sport arena.

42

43 My first comments I'd like to direct to
44 proposed rules on customary trade. We have discussed
45 this at length in many meetings at our committee. Some
46 of our concerns are, the sustainability of the resource.
47 That, we believe, must come first in any proposed
48 regulations. One of our next problems is, I don't know
49 if it's a problem or not, we feel that any regulations
50 must have accountability. Many of us on our committee

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1 feel that there is a discrepancy between the numbers of
2 fish that go by the sonar counter in the Copper River and
3 the final numbers of escapement and we're not pointing
4 the finger at any one user group, we just feel that any
5 user group that harvests salmon we want some form of
6 reporting so that we know where the harvest occurs and
7 can be measured for sustainability.

8

9 The concept of enforceability. Somehow
10 there must be, if there's a limit or a set amount that a
11 person can utilize there must be an enforceable level
12 with rules that are enforceable or enforcement will have
13 no way to enforce it. We see possible abuse of the
14 system. I mean you're talking about, in our view, almost
15 creating a commercial entity in the up river arena and
16 down river arena in what we feel is a fully utilized
17 resource. It makes us quite nervous, quite frankly, we
18 feel that there is a commercial entity already and that's
19 the commercial fishery at the mouth of the river.

20

21 Another thing that makes us quite nervous
22 and we have discussed at length in our discussions is the
23 public health and safety issues. In 1982, one can of
24 salmon, pink salmon in England caused the death of a
25 person and it rebounded through our industry for years.
26 We saw a drastic reduction in prices. It was terrible.
27 It drove people out of business. It was absolutely a
28 catastrophe and if there aren't some public health and
29 safety standards, we feel that there could be the same
30 possibility.

31

32 Nobody on our committee had any problem
33 with rural people bartering or trading. But when you
34 start setting a cash amount on this it, we feel,
35 constitutes a commercial enterprise and we feel once
36 again there already is a commercial enterprise and it's
37 the commercial fishery that's been going on for about 100
38 years, not nearly as long as subsistence but when you
39 start putting cash values on things it makes us very
40 nervous.

41

42 When you're talking cash values, when you
43 start talking 1,000, 15,000, you're entering the realm of
44 a commercial fishery already, for instance, on the Yukon
45 River, that's in the realm of a commercial fishery on the
46 Yukon River. And if you allow this to proceed it, we
47 feel, will displace the commercial fishery already there.

48

49 We also have concerns about the sales
50 between fisheries businesses or entities, such as

00043

1 restaurants and individuals. We feel that the sales
2 should -- or trade should be between individuals or a
3 community and not enter the commercial arena in any
4 fashion.

5
6 The Copper River fishery is one of the
7 few fisheries in the state that has enjoyed high prices
8 in a time of falling prices in the salmon industry.
9 There's many problems with the salmon industry right now.
10 Unfortunately most of it is due to low prices. The
11 Copper River fishery enjoys very high prices especially
12 at the beginning of the fishery, due to efforts by people
13 in Cordova to market their salmon outside the traditional
14 areas and foreign corporations that have been marketing
15 our fish over the years. We have created a direct
16 marketing approach that has been very successful and we
17 are quite nervous about any fish entering this marketing
18 arena that would in any way impact that. It took many
19 years of hard work to create one small success story in
20 an otherwise dismal picture in the salmon industry in
21 Alaska.

22
23 That pretty much sums up our discussion
24 on customary trade and barter.

25
26 My next comments I will make as an
27 individual because the committee did not discuss specific
28 proposals other than customary traditional trade and
29 barter.

30
31 I would just say that -- I'll just run
32 through them real quick, Proposal 27. Basically what I'm
33 going to say as an individual is I support Cordova
34 District Fishermen United's position and I think you have
35 that in writing and if you don't I'll run through them
36 but otherwise I won't waste your time with it. But I
37 think it's in your booklet already so I won't waste your
38 time and I'll just ask you if you have any questions?

39
40 CHAIRMAN LOHSE: Bob.

41
42 MR. CHURCHILL: Thank you for coming and
43 testifying. AC work is intense. I spent a few years on
44 it myself. You expressed a number of concerns that I
45 think Sue Aspelund articulated very well.

46
47 Do you see any possibility between folks
48 that harvest in subsistence working with the comm fish
49 folks as far as sale within that realm between one
50 another to create cash? A minimal amount of cash. Would

00044

1 that address some of your concerns as far as health and
2 creating another fishery, possible damage to the nitch
3 market that's been created for Copper River reds?

4

5 MR. RENNER: One of our concerns is where
6 the fish are harvest. When you harvest the fish at the
7 mouth of the river, we feel that the quality is higher
8 than when you harvest them up river. We're regulated by
9 DEC and you must follow strict guidelines in how you
10 process the fish on the vessel and the sanitary
11 conditions and what not. And creating some type of a
12 committee to help with that would address some of the
13 quality concerns. Yes, we're still very concerned with a
14 fully utilized resource being allocated to another user
15 group.

16

17 MR. CHURCHILL: Thank you.

18

19 CHAIRMAN LOHSE: Any other questions for
20 John. Thank you, John, go deer hunting.

21

22 MR. RENNER: Thank you for letting me
23 testify.

24

25 CHAIRMAN LOHSE: Is your boat all warmed
26 up? Okay, with that I have a couple of other public
27 testimonies, they would like to speak at certain times in
28 our meeting. If there are no -- Ann, do you have
29 something right there?

30

31 MS. WILKINSON: Unh-unh.

32

33 CHAIRMAN LOHSE: We'll close this public
34 testimony at this time but if any of you have any subject
35 you want to speak to at any time, you see a subject
36 that's coming up that you want to speak to get Ann a
37 green slip, we provide opportunity to speak. We don't
38 believe in trying to run things through without hearing
39 from the public.

40

41 Anybody have a watch on?

42

43 MS. WILKINSON: 10:48.

44

45 CHAIRMAN LOHSE: 10:48, we can't break
46 for lunch yet.

47

48 (Laughter)

49

50 CHAIRMAN LOHSE: I will go through the

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1 first part of the proposal and then we're going to take a
2 five minute break and then.....

3

4 MS. WILKINSON: Mr. Chairman.....

5

6 CHAIRMAN LOHSE: Yes.

7

8 MS. WILKINSON: You need to turn your
9 mike on.

10

11 CHAIRMAN LOHSE: Mr. Chairman always
12 forgets to turn the mike on, if I'm quiet can I just keep
13 it on? I will go through this first part of the
14 introduction and then we're going to take a five minute
15 break and then we'll go on to the proposals. The way we
16 handle the proposals is we'll have the introduction of
17 the proposal, an analysis of the proposal, we get
18 comments from the Alaska Department of Fish and Game and
19 other Federal, State and tribal organizations. We'll get
20 the Fish and Game Advisory Committee comments. And we'll
21 read into the record the written public comments we have
22 on that proposal. And then the Board will decide whether
23 to put the -- the Council will decide whether to put the
24 proposal on the table and deliberate, make
25 recommendations on it.

26

27 Again, remember, we do not make laws, we
28 do not pass laws, we do not pass regulations, all this
29 Council does is make recommendations to a body who has
30 the authority to make regulations. So this is strictly
31 an advisory council. It's listened to and it's ignored
32 and sometimes it's followed. So we'll do the best that
33 we can to listen to everybody and to make recommendations
34 that we think are in the best interest of the resource
35 first and of the individual second.

36

37 Thank you.

38

39 We're going to take a five minute break
40 and we are going to go on to Proposal 27.

41

42 (Off record)

43

44 (On record)

45

46 CHAIRMAN LOHSE: Okay, if you'll all turn
47 to Tab D, that's where our proposals are and we're going
48 to start with Proposal 27 and Pat is going to give us the
49 introduction and analysis of it, the Staff analysis.

50

00046

1 Pat.

2

3 MS. PETRIVELLI: Mr. Chairman, my name is
4 Pat Petrivelli. I'm an anthropologist with the Office of
5 Subsistence Management and the Staff analysis for 27
6 begins on Page 61.

7

8 This proposal was submitted by our office
9 and it requests that the Board establish a statewide
10 Federal regulation allowing the taking of fish for
11 religious and ceremonial potlatch purposes, similar to
12 the ones in subpart D for wildlife. And with the
13 regulations, this was proposed to allow the harvesting of
14 fish outside of published open seasons and there's one
15 little change, instead of just open seasons, it's open
16 seasons or harvest limits, and it's just a question of
17 the and/or harvest limits. And just upon notice to
18 delegated local Federal in-season fisheries managers if
19 the harvested fish will be used for fish in traditional
20 religious ceremonies.

21

22 And it went on that we do allow -- the
23 way we allow it under State is -- or for wildlife,
24 there's provisions for the taking of wildlife and it's
25 shown on Page 62 and those are allowed in various -- in
26 unit specific provisions in 13 of the 26 different game
27 management units. And so the approach for fish, since we
28 just started dealing with fish was just to deal with it
29 on a statewide basis throughout the state. And in
30 looking at that, in the various conditions that have been
31 implemented for wildlife, the provisions they have in
32 common and what we -- in the proposed regulations there
33 was just four factors that thought should be implemented
34 and that's just to have the -- and that's part of the
35 proposed regulation, saying that the person or designee
36 organizing the ceremony contacts the appropriate local
37 manager prior to attempting to take the fish. And the --
38 well, the proposed regulation is on Page 64 and then they
39 would provide the name of the decedent, the nature of the
40 ceremony, the parties and/or clans involved, the species
41 and numbers of fish to be taken and the Federal waters
42 from which the harvest will occur.

43

44 And the biological impact caused the
45 provision of the -- the limitation that no more than 25
46 salmon or five steelhead may be taken. Because
47 generally, our regulations allow unlimited take of other
48 fish and species and the restrictions are usually
49 centered around salmon or steelhead. And of course, the
50 next provision would provide for conservation concerns

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1 for all fishing, you know, just as long as the take
2 doesn't recognize [sic] violated principles and uses
3 methods and means allowable for the -- whatever the local
4 area calls for.

5

6 And then under the C portion has the
7 reporting and saying whoever takes the fish under this
8 section, as soon as practicable, and no more than 15 days
9 after the harvest submit a written report to the
10 appropriate local Federal fisheries manager specifying
11 the harvesters name, address, number, and species and
12 date and location and name of decedent.

13

14 And then it goes on to say that there is
15 no permit required and it's just really a reporting
16 provision, reporting before you take it and after you
17 take it to the local manager and then, of course, the
18 restrictions would be that the harvester must be an
19 Alaska rural resident with a customary and traditional
20 use determination for that area. So where we have made
21 specific use determinations, the eligible harvester must
22 meet all the normal eligibility requirements under our
23 regulations.

24

25 The justification for the regulation is,
26 is it would recognize the importance of fish in Alaska
27 Native ceremonial and religious activities and that's
28 been documented in certain areas through reports about
29 potlatches, of course, very few sources have documented
30 the types of food eaten, but it's generally known that
31 fish is part of the food served at ceremonies. And then
32 this regulation would allow this use in ceremony purposes
33 and then the language would provide for any biological
34 concerns.

35

36 So I think that basically presents what
37 the proposed regulation would do, would allow the taking
38 of fish for ceremonial purposes. And it's basically a
39 reporting -- provides for that with the reporting
40 requirements.

41

42 If you have any questions.

43

44 CHAIRMAN LOHSE: Any questions for Pat.
45 Now this reporting is not on a form, it's just a written
46 report that they file themselves or will you present them
47 with -- will you make a form available so it's easier to
48 be handled?

49

50 MS. PETRIVELLI: I think -- it might be

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1 even just a phone call. Because it just says the person
2 organizing the ceremony contacts the appropriate local
3 fisheries manager.

4

5 CHAIRMAN LOHSE: So it doesn't even have
6 to be written, they could do it over the phone?

7

8 MS. PETRIVELLI: Well, actually the first
9 contact is by a phone call.

10

11 CHAIRMAN LOHSE: Right.

12

13 MS. PETRIVELLI: The second one is submit
14 a written report and so I'm not sure.

15

16 CHAIRMAN LOHSE: Yeah.

17

18 MS. PETRIVELLI: I think it would be up
19 to the local person if it was just a letter or a piece of
20 paper that said, since we say a written report.

21

22 CHAIRMAN LOHSE: Right.

23

24 MS. PETRIVELLI: Yeah.

25

26 CHAIRMAN LOHSE: Fred.

27

28 MR. ELVSAAS: I notice the Cordova
29 District Fisherman's Union wants a permit issued and a
30 single permit for each potlatch or ceremony, is that
31 practical? For instance, if you were going to, say, have
32 fish and moose or game, would you need more than one
33 permit or permission, how would you do that?

34

35 MS. PETRIVELLI: This particular
36 regulation is just for the taking of fish. And so of
37 course the way the proposed regulation is, there would be
38 no permit required. And I think the comments to the
39 Cordova Fisherman's Union, I'm not sure -- under our
40 proposal there would be no permit required.

41

42 MR. ELVSAAS: Okay.

43

44 MS. PETRIVELLI: So I guess it would be
45 possible for the local manager to combine, I'm not sure,
46 it depends upon which managers. Like the Park Service
47 could possibly issue a fish and wildlife permit but --
48 but I'm not.....

49

50 MR. ELVSAAS: Okay. Then if you go to

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1 the appropriate manager and get permission, is it written
2 permission?

3

4 MS. PETRIVELLI: Well, Bill Knauer
5 pointed out that we can -- local managers wouldn't have
6 to issue a per -- they couldn't issue a permit if we
7 don't require it. So as this proposal is written, no
8 permit would be required. And it's just contacting the
9 local manager saying that they would harvest -- they
10 would like to harvest a certain number of fish and the
11 local manager would agree to that taking of fish.

12

13 MR. ELVSAAS: It would be just an oral
14 agreement then?

15

16 MS. PETRIVELLI: Uh-huh, yeah.

17

18 MR. ELVSAAS: Okay, thank you.

19

20 CHAIRMAN LOHSE: Bob.

21

22 MR. CHURCHILL: Yeah, Pat, as I
23 understand this as originally written, that the approval
24 process is all verbal and just from the sense of it it
25 could be done quickly and easily. But the reporting
26 process does need to be in writing. That once those fish
27 are harvested and it allows them 15 days to do that and
28 get it into you, am I clear on that understanding?

29

30 MS. PETRIVELLI: Yes. The only reporting
31 requirement is after the fact as the proposal is written
32 now.

33

34 CHAIRMAN LOHSE: I have a question Pat.
35 Then does that leave it up to the local manager to decide
36 whether there's a conservation issue involved in the
37 taking of these fish?

38

39 MS. PETRIVELLI: Yes. In subsection B it
40 says the local Federal fisheries manager may restrict the
41 number of species -- the number, species or place taken
42 if necessary.

43

44 CHAIRMAN LOHSE: So he will have to make
45 that decision?

46

47 MS. PETRIVELLI: Except for the salmon
48 and steelhead, as written, it's no more than 25 salmon or
49 five steelhead.

50

00050

1 CHAIRMAN LOHSE: Any other -- Bob.

2

3 MR. CHURCHILL: Pat, did you guys kick
4 around any projected estimates of how often this might
5 happen in terms of, let's just focus on maybe the Copper
6 River area, the upper Copper River, any ideas what the
7 frequency of these types of requests would be?

8

9 MS. PETRIVELLI: To my knowledge, no, we
10 didn't discuss, because pretty much a lot of the taking
11 of this fish, the limits are so -- it's that for most
12 fish species existing open seasons and harvest limits
13 already provide the opportunity to take fish so -- and
14 then salmon's only seasonally available so in general, in
15 a lot of permits, if you haven't met your needs and you
16 can go and ask for another permit so in some areas but
17 it's just on a -- in certain areas the restrictions
18 aren't that great so it wasn't something we kicked around
19 a lot.

20

21 MR. CHURCHILL: Thank you.

22

23 CHAIRMAN LOHSE: Any other questions for
24 Pat. Thank you, Pat. Alaska Department of Fish and
25 Game, any comments. You've got comments in the book, do
26 you have any other comments on it? No other comments
27 than the ones that are in the book, that you're basically
28 neutral? Okay. Any other Federal, State or tribal
29 agency comments on this proposal?

30

31 MR. BRYDEN: Mr. Chairman, Jeff Bryden
32 with U.S. Forest Service law enforcement. My only
33 question with this proposal pertaining to section D where
34 no permit is required for the taking. As an enforcement
35 situation, if I see somebody that's fishing early or late
36 of what's a season that's already set accordingly for
37 subsistence or commercial or sport, and the person has
38 nothing in writing and I find him out there with 20
39 salmon or something, it's going to kind of make it a
40 little bit of an issue. I don't see any problem with if
41 they're calling verbally that somebody could give them a
42 permit and have the permit with them just so that we know
43 when we're contacting them what's going on.

44

45 It's going to make it kind of an
46 interesting issue, you know, the numbers and everything
47 are up to the biologist but as far as trying to make sure
48 that there's an accountability on our end of it, if it
49 goes through as it's written here, I don't see any
50 enforceability of the issue.

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1 Thank you.

2

3 CHAIRMAN LOHSE: Questions. I see
4 something more than -- it's not even a matter of
5 enforceability, it's going to put you and the individual
6 on the spot. It's not a case of worrying about too many
7 fish being taken or not but it's going to be awful hard
8 for an individual to explain to you why he's got 20 fish
9 on a six stream limit when there is nothing to tell you
10 that he has permission to take those 20 fish, you know,
11 and I can see where that would cause problems that way.
12 I never thought of that.

13

14 Any other questions. Any other Federal,
15 State or tribal agency comments. ADF&G.

16

17 MS. WRIGHT: I just would like to read
18 into the record, the Department was neutral on this.
19 However, we recommend that ceremonial harvest be subject
20 to the regulatory controls for conservation purposes of a
21 harvest limit by species, area and time along with a
22 timely reporting mechanism. And then they also ask the
23 question if this is really a regional southeast proposal
24 rather than statewide.

25

26 CHAIRMAN LOHSE: I was under the
27 impression this was a statewide proposal, not a southeast
28 proposal.

29

30 MS. WRIGHT: And I think the reason they
31 thought maybe this was more of a southeast issue.

32

33 CHAIRMAN LOHSE: Yeah. This probably
34 isn't as much of a southeast issue because on salmon and
35 steelhead, the only time that they're available for
36 potlatches or anything else is the time that everybody
37 has permits to take them in sufficient quantities
38 otherwise I can see where this would affect other places
39 more than southeast. Because when we have salmon
40 available, we have very generous subsistence permits out
41 there that they could be taken under and personal use
42 permits and all of the rest of it. But it's a statewide
43 proposal.

44

45 MS. WRIGHT: Thank you.

46

47 CHAIRMAN LOHSE: Question, Bob.

48

49 MR. CHURCHILL: Yeah, Sherry, I'm looking
50 at the comments and the reading into the record and I'd

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1 be interested, it says, subject to regulatory control,
2 does that envision having a preexisting permit, what --
3 could you expand on that a little bit?

4

5 MS. WRIGHT: I'm sorry, I didn't sit in
6 on the comments, I just wanted to read it into the
7 record. Tom Taube is here, he might be able to shed some
8 light on it.

9

10 MR. CHURCHILL: All right, thank you.

11

12 CHAIRMAN LOHSE: Tom.

13

14 MR. TAUBE: Yeah, Mr. Chairman. Mr.
15 Churchill, could you repeat your question.

16

17 MR. CHURCHILL: Yeah, Tom, when I'm
18 reading the language and it says, ceremony harvest be
19 subject to regulatory controls for conservation purposes,
20 what was envisioned there, like a preexisting permit,
21 could you expand on that a little bit, exactly what you
22 would want that to look like?

23

24 MR. TAUBE: Well, I think just simply as
25 it's described in there that, you know, there be a limit
26 set by species, when they could be taken and that the
27 harvest is reported. Whether it -- you know, it
28 necessarily wouldn't have to be a permit as, you know,
29 outlined in the Staff recommendation that just the
30 harvests are reported. Similar with what we see with the
31 game, ceremonial use of game, you know, we get contacted
32 when an animal's been taken within a certain amount of
33 time.

34

35 MR. CHURCHILL: Does the existing
36 language that you're looking at satisfy that in the
37 proposal, it essentially talks about 25 salmon, five
38 steelhead, that the verbal contact ahead of time and the
39 written report after, does that satisfy the need you
40 envisioned in that language?

41

42 MR. TAUBE: Yeah, that specifies the, you
43 know, the amount and the reporting requirements.

44

45 MR. CHURCHILL: Thank you very much, Tom.

46

47 CHAIRMAN LOHSE: Tom, you've had some
48 experience with, like you said before, with the taking of
49 moose for ceremonial purposes, you've been around as it
50 happens, they don't get a written permit ahead of time to

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1 do that, they just contact you and tell you they're going
2 to do that, don't they?

3

4 MR. TAUBE: Yes, Mr. Chairman, that's
5 correct. They contact the office and just notify us
6 where they'll be, what type of vehicle they'll have and
7 then we'll pass on that information to Fish and Wildlife
8 Protection so that those people aren't harassed when
9 they're doing that.

10

11 CHAIRMAN LOHSE: Right. So the fact that
12 they've made contact gets passed on to Fish and Wildlife
13 Protection so Fish and Wildlife Protection would know
14 what was going on if they came across somebody taking
15 those fish?

16

17 MR. TAUBE: That's correct. And I guess
18 for, particularly for the Southcentral region as you
19 stated earlier, a lot of this will occur when the
20 subsistence season's already open so they probably won't
21 even stand out any differently than anybody else with the
22 exception that maybe the steelhead retention which isn't
23 permitted under Southcentral regulations.

24

25 CHAIRMAN LOHSE: Right. Bob.

26

27 MR. CHURCHILL: Tom, do you have any
28 other advice or direction based on your experience that
29 might help us in deliberating this proposal?

30

31 MR. TAUBE: I think the Staff
32 recommendation, I think that's pretty complete and I
33 think it, you know, outlines a line of direction to
34 follow which I think is satisfactory from all groups.

35

36 MR. CHURCHILL: Thank you.

37

38 CHAIRMAN LOHSE: Thank you. Okay, we have
39 Devi, do you want to speak as an agency or do you want to
40 speak as just your slip that you put here?

41

42 MS. SHARP: Agency.

43

44 CHAIRMAN LOHSE: Okay.

45

46 MS. SHARP: Thank you, Mr. Chairman and
47 Council members.

48

49 MR. CHURCHILL: Your mike, Devi.

50

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1 MS. SHARP: Thank you, Mr. Chairman, and
2 Council members. I'd like to briefly speak to Proposal
3 27. I'm speaking on behalf of Wrangell-St. Elias
4 National Park superintendent Gary Candelaria. And he had
5 the opportunity to think and discuss this with his staff
6 during our recent Subsistence Resource Commission meeting
7 in Tok and Gary feels very comfortable -- as the
8 delegated authority for the Copper River, he feels very
9 comfortable with this proposal. He supports it in
10 concept and he feels that we could easily provide the
11 user a letter or a permit in a timely manner, fax it to
12 somewhere.

13
14 Gary also felt that the people needing
15 the fish for the ceremonial purposes should suggest what
16 they need. If they were feeding a large group of people,
17 that was a skimpy amount of fish. And since most of the
18 time that the fish are present in the Copper River
19 there's an open season. There's little exception, but
20 for the most part since there is an open season it's not
21 a big issue. But we would like to suggest a modification
22 be made on Federal waters that delegate authority have
23 the discretion to work with the proponent to set the
24 number of fish.

25
26 And you have our commitment to pass the
27 information on to the local Fish and Wildlife officers
28 who would be in the potentially uncomfortable position.

29
30 CHAIRMAN LOHSE: Thank you. Any
31 questions for Devi. Susan.

32
33 MS. WELLS: How would that impact the
34 other areas though, we're talking about Mt. St. Elias,
35 the area, if this is statewide, having the local
36 authority to delegate, is that going to cause confusion?

37
38 MS. SHARP: Well, each of the Federal
39 bodies has a delegated -- has an individual from a
40 Federal agency who is the delegated authority to make in-
41 season management changes.

42
43 MS. WELLS: Okay.

44
45 MS. SHARP: For the Yukon River, it's
46 Fish and Wildlife Service. And it varies throughout the
47 state.

48
49 MS. WELLS: Well, I guess my other point
50 would be that this is for rural.

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1 MS. SHARP: Absolutely. Yes, they would
2 need to be qualified to use that resource in a
3 subsistence manner right from the start.

4
5 CHAIRMAN LOHSE: Fred.

6
7 MR. ELVSAAS: Yeah, that raises a
8 question here in my mind. Do you envision, say, you
9 know, I'm rural in Seldovia, can I come over to the Park
10 and get a permit?

11
12 MS. SHARP: No.

13
14 MR. ELVSAAS: Why not, it's rural?

15
16 MS. SHARP: Because you need to qualify
17 -- you need to have the C&T that this regulation.....

18
19 MR. ELVSAAS: Okay.

20
21 MS. SHARP:so.....

22
23 MR. ELVSAAS: Good.

24
25 CHAIRMAN LOHSE: Devi, I have one
26 question. Do you see anything in this proposal that
27 limits it to one permittee per function? I mean, could
28 you have six different people say we want to take 25 fish
29 for this function or would that be, since it goes through
30 the delegated authority it would be up to him to -- what
31 you were talking about, was the need for possibly more
32 than 25 fish.

33
34 MS. SHARP: That's correct.

35
36 CHAIRMAN LOHSE: Could a second person
37 take that other 25 fish? I mean if the function's big
38 enough that it's going to need more than 25, could the
39 designated authority allow two people to have the permit?

40
41 MS. SHARP: I don't think that would be
42 an issue with us.

43
44 CHAIRMAN LOHSE: So then the 25 fish
45 doesn't become an issue either because if it's large
46 enough that it's going to take more, a second permit
47 could be issued?

48
49 MS. SHARP: But if one person's running a
50 fishwheel or has a legitimate means of taking fish and

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1 it's going to be that one person and they feel they could
2 take 35 fish, we don't want to limit that potlatch to 25
3 fish but we wouldn't be opposed to, if we felt that it
4 was appropriate for the resource and for the situation,
5 we wouldn't be opposed to okaying two permits.

6

7 CHAIRMAN LOHSE: Yeah. Bob.

8

9 MR. CHURCHILL: I guess this reaches a
10 bit on discussion but as I read A on Page 64, it seems to
11 imply there would be a person contacting on behalf and,
12 at least to me, the language implies one permit with that
13 limit of salmon. I'd be very nervous about multiple
14 permits for the same ceremony. I think you get -- you
15 have six people out there all going after a number of
16 fish, you could end up with an excessive harvest
17 unintentionally certainly, but I'd be real nervous about
18 allowing for that. I'd have a higher comfort level with
19 allowing the folks to say, well, in this case if you're
20 going to have this many people attending the potlatch
21 there may be more than 25 salmon taken. I think we
22 really open a bag of worms when we're talking about
23 multiple permits for the same potlatch.

24

25 CHAIRMAN LOHSE: Thank you, Bob. That
26 was the reason that I brought it up, I had the same
27 concern. I know that the reason 25 and five was put in
28 there was basically more for the steelhead than it is for
29 the salmon. Like I said before, if it's taken during the
30 time of the year when salmon are available, at least in
31 southeastern, there's no problem taking additional salmon
32 with other kind of permits or, if necessary, coming out
33 of, you know, some other kind of shared resource. And so
34 I don't see any necessity for -- because part of
35 subsistence is sharing anyhow and part of subsistence,
36 for something like this, is there's sacrifice involved
37 anytime that you do something. And to have 25 salmon if
38 10 more are needed, I'm sure the individuals involved can
39 find a way to come up with 10 more salmon even if it
40 means taking it out of their own use.

41

42 And since it's a statewide regulation, we
43 have to write it in -- you know, there are places that
44 this is going to allow salmon to be taken where salmon
45 are in short supply but it recognizes the fact that there
46 is a need for salmon for this kind of purpose and so, you
47 know, basically what we're saying is 25 salmon can't hurt
48 anything anyplace. If we'd open the door to as many as
49 you need, it could hurt something someplace else even if
50 it doesn't hurt it from the Copper River basin. So from

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1 that standpoint, I'm like Bob, I'd like to see one permit
2 per function. I recognize the need for having a limit
3 like that on there.

4

5 Okay, any other questions for Devi.

6 Okay, we have a whole lot going for 27. The next one is

7 R. J. Kopchak.

8

9 MR. KOPCHAK: Good late, morning to you

10 all and thanks for putting in your time on this. I'm a
11 commercial fisherman here in Cordova and have been doing
12 so off and on for 28 years and am exhausted in the
13 process relating to the continued allocation of the
14 resources that I depend on.

15

16 I know you guys are probably tired of
17 hearing a lot of testimony. We've been doing this for
18 like 28 straight years that I've been here and I know it
19 precedes me in its complexities, the evolution of the
20 Federal subsistence management of the Interior regions
21 and some of the coastline, of course, thrown new
22 questions in front of us and is constantly challenging
23 our abilities to both retain our ability to fish in a
24 subsistence fashion for cash, our kind of licensed
25 enterprise and see the evolution of reallocation of those
26 traditional values to new evolutionary uses in some areas
27 and/or try to address some perceived deficiencies in past
28 allocation for traditional and customary uses.

29

30 It is one heck of a challenge you face.

31 I remember the last guy, historically that tried to give
32 a few fish to a lot of folks died for his efforts and,
33 you know, you guys are facing the same kind of a
34 challenge there, at least you don't have loaves to break
35 up.

36

37 So this is what I think about subsistence
38 and customary uses and potlatches and such. I think that
39 that's the most appropriate and fitting kind of
40 provisions to make within the subsistence rulings. That
41 those kinds of uses truly reflect the history and the
42 cultural attachment that any folks that were raised and
43 grew up around a fishing economy would have and that
44 would include places like Cordova as well as little tiny
45 villages that are adjacent to rivers and streams.

46

47 What does concern me is when we talk
48 about customary and traditional uses is this evolution of
49 trying to decide that we're now going to create
50 commercial uses in addition. And although, that's not

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1 the exact issue in front of you for your current
2 discussion it's one you're going to be discussing through
3 this day and in the future. What I'd like to say about
4 that is, you know, and again when I started 28 years ago
5 in 1973/74 commercial fishing on the flats, the resource
6 is fully allocated, it was fully utilized with 100
7 percent taken care of. And any changes made in the
8 system is not creating a new opportunity for somebody it
9 is, instead, changing the opportunity in the lay of the
10 land for a traditional user. And that's a real
11 challenge.

12

13 I'm a little indignant with the evolution
14 of the capacity to barter and trade a cash value of a
15 resource that has enjoyed a hundred years of regulated
16 commercial fishing.

17

18 Bottom line, the commercial fishing
19 enterprise has been fully regulated, is currently fully
20 regulated it doesn't need more regulation, meaning
21 creation of new opportunities and new fisheries. And as
22 you guys debate this and decide on your regulations you
23 need to examine that. I don't know if any of you are
24 commercial fishermen besides Ralph, I know that he fishes
25 the flats here but if you are involved in any of the
26 commercial fisheries you know that your families and
27 communities rely on that enterprise. And when these
28 things are reallocated, real people are hurt and real
29 families lose opportunity and local communities have real
30 crises to deal with.

31

32 So I speak totally opposed to any
33 allocation of our limited resource, fisheries resource to
34 new exploitive commercial fisheries. And that means
35 anyone that wants to shroud it in traditional and
36 customary bartered language is I really think often the
37 case. I think Wilson earlier, I think that was the
38 gentleman's name, talked about the need to support Native
39 communities and elders within any of our communities and
40 how appropriate that was and I couldn't agree more.
41 There's absolutely no question in my mind. That's
42 subsistence use. But there should be no cash value
43 attached anywhere along the line. And your deliberations
44 should reflect that, I think, after you give it careful
45 thought.

46

47 The minute you put a dollar value on this
48 resource and allow a new exploitation of that resource to
49 gain cash, you will destroy the coastal fishing
50 communities in this state. And although you can play

00059

1 with all kinds of numbers, those numbers are statistics
2 and the lie. If we look at the salmon resource as a
3 whole, there's a whole lot of pounds of resource, a whole
4 lot of those pounds are worth three and five cents pinks,
5 15 cents is chums and we can skew our vision of what
6 truly affects families and communities. And I hope that
7 as you think about these things you don't allow those
8 statistical profiles to skew your way of thinking.

9

10 The Copper is the prime example. If you
11 allow a cash value exploitation of the resource in excess
12 of what's currently being done by the licensed commercial
13 fleet, the historic traditional subsistence users at the
14 mouth of the river for the commercial value you'll
15 destroy us. There's not enough fish. We're history.
16 And you need to know that. I don't know how it affects
17 the rest of the state but I know how it sits for us.

18

19 Thank you for this opportunity.

20

21 CHAIRMAN LOHSE: Any -- Bob.

22

23 MR. KOPCHAK: Oh, I'm sorry.

24

25 CHAIRMAN LOHSE: Sit down RJ.

26

27 MR. CHURCHILL: He said that with a
28 degree of authority didn't he.

29

30 (Laughter)

31

32 MR. CHURCHILL: I guess and, again, I
33 appreciate your testimony. What is your reaction to
34 folks within the rural community say trading fish for
35 moose or fish for berries or that sort of thing, what's
36 your reaction to that within your fishery?

37

38 MR. KOPCHAK: No one should try to
39 regulate that by saying this is the level of that kind of
40 activity we allow. Those are the traditions and I think
41 that, again, Wilson addressed the definition of tradition
42 very well. Something that's handed down back and forth
43 that you don't ever change. It's not a custom, it's a
44 tradition. I trade fish for moose, I trade fish for elk,
45 even that's brought in from out of state, I trade fish,
46 you know, for vegetables and berry pies and that is a
47 tradition. And don't legislate that stuff. Don't even
48 address it. That's absolutely foolishness.

49

50 MR. CHURCHILL: Thank you. One thing,

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1 methods and means, that early fisherman you spoke of, I
2 believe also used nets; is that correct?

3

4 MR. KOPCHAK: We love nets.

5

6 (Laughter)

7

8 CHAIRMAN LOHSE: Any other questions for
9 RJ? Fred.

10

11 MR. ELVSAAS: Yeah, thank you. You know,
12 your concerns are the very concerns that bother me, too.
13 But I do recognize that there are subsistence people that
14 need to access cash. Now, when Wilson was talking about
15 the elders, he was talking about them smoking salmon
16 strips and selling them and so forth also, so I can agree
17 with that. What bothers me is that if we see a limit
18 say, of a thousand dollars for sale of subsistence fish,
19 when we look at today's prices of fish that's a lot of
20 money, I mean a lot of fish. It just, you know, it
21 doesn't really sit good with me at all either.

22

23 I do like the concept that a greater
24 portion of the fish must be used by these subsistence
25 fishermen so that they're not just fishing for commercial
26 purposes. But then we need to recognize that these
27 people subsistence fishing, it costs money for nets and
28 outboards and so forth. But I am a commercial fisherman
29 also and I do both, I fish subsistence, I fish personal
30 use, I fish commercial and bite my tongue, I do fish
31 sport for halibut because we don't have the subsistence
32 halibut fishery right now. So, you know, I'm very
33 concerned that we don't want this to get carried away to
34 where there's a lot of subsistence fish being marketed.
35 But in turn, I do think that there should be some
36 allowance for sales and I don't really have the answer.

37

38 Thank you.

39

40 MR. KOPCHAK: If I might give my
41 impression on that. You know, one of the things about a
42 system that's totally broken, which is the one you guys
43 and we are all forced to live within because you're the
44 Feds and they're the State and there's State laws and
45 Federal laws and new interpretations. No one has the
46 tools to fix some of these problems and that's the sad
47 thing about it. And your attempt to address what you
48 feel are the Federal mandates, you're going to break a
49 system that's mandated under State law and the State is
50 going to try to respond to the broken system that was

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1 created by the Federal system that was created by the
2 Federal jurisdiction's trying to address what they feel
3 is their mandates by creating new and probably draconian
4 methodologies of new management to make our system work
5 with yours.

6

7 And so it's just utterly hopelessly
8 broken. And I understand the need for cash in many of
9 these communities and I think that there are
10 methodologies that if everybody could be at the same
11 table for a couple of weeks of figuring out how to work
12 regulations it could work. I mean if you took a point
13 that the resource is fully allocated, fully allocated
14 today then you know what the numbers are, they're fully
15 allocated today, you got the numbers, right, so you're
16 not -- so what you're saying is, is that out of the
17 existing numbers somebody's going to be able to convert a
18 thousand bucks or two thousand bucks with their fish,
19 give me that assurance I'm a little more comfortable.
20 But you're not saying that. And I mean I'm not picking
21 on you as individuals, the system is not saying that.
22 The system is saying, instead, that we're going to allow
23 these new cash sales and if that means that that creates
24 a new demand for numbers to fill that newly created
25 opportunity for cash then we're going to increase the
26 number of fish that we demand to be available for that
27 particular use because we've called it subsistence, the
28 priority use for that resource and then there's no
29 choice. Now the State department is going to have to
30 give additional fish to this new cash business that was
31 created. Didn't come out of the old subsistence numbers
32 which, again, are they fair now?

33

34 If they're fair now then what's the
35 problem, keep the numbers the same. Keep the ratio the
36 same and let them do what they want with their fish but
37 don't be taking more fish then out of this other
38 allocation. If you want then, if you say today it should
39 be static because that's the balance that we've reached
40 in the last hundred years of fighting this fight and
41 we're going to create a new cash economy based on
42 fisheries up any river but let's choose mine, then let's
43 say that the allocation of those new fish up river have
44 to come out of the existing commercial allocation and
45 they have to be bought just like me buying a commercial
46 fishing permit from the other guy I'm wanting to replace
47 so I can have his fish so I can make a living so I go buy
48 his permit, what the heck's wrong with the Federal
49 government then buying permits out of the fishery and
50 saying, we've transferred, we've reallocated, we've taken

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1 that opportunity away from the coastal community and
2 created a new cash opportunity, commercial cash
3 opportunity because when you sell it's not subsistence,
4 it's cash, we've created a new commercial opportunity up
5 river. We're going to displace 50 or 80,000 fish out of
6 that commercial fishery and we're going to have to
7 displace them based on some formula that many permits to
8 take those fish out of this commercial fishery and
9 introduce them to this commercial fishery upstate that
10 we've created through our activities.

11

12 You've offered some opportunity for this
13 coastal community to stay within at least a reasonable
14 opportunity for the number of permits left competing for
15 a limited resource, because our problem is, we're stuck
16 at 524 permits on the flats and every time you guys, not
17 you but any time the system creates a new series of new
18 allocations, those fish come out of our hides and yet
19 there's still 524 or so of us every time.

20

21 So we just continue to lose. Thank you.

22

23 CHAIRMAN LOHSE: Sue.

24

25 MS. WELLS: I can hear what you're saying
26 with my heart and it's going through my ear and my head
27 and my heart because my permit, I'm a commercial
28 fisherman on the Cook Inlet setnetter, my allocation is
29 numbered. I don't get an equal amount of fish. So, you
30 know, when we think about our commercial fishery, you
31 know, we've got a tradition in this state and it has been
32 impacted by other commercial developments. And one of
33 them we're fearing being the subsistence. When I think
34 of subsistence, my father who fished Cook Inlet and I
35 think he's even been around Prince William, our fish came
36 right out at the boat, the salt fish, he'd bring fish
37 home for us and that's what I do today. That's what I'm
38 calling my subsistence and I can hear what you're saying
39 about the sale of that fish.

40

41 But also in Mr. Justin, his concern for
42 the elders, and if we focus on that, it's not creating a
43 new allocation but it's defining what has already been
44 allocated. And trying to put a definition on that is
45 very hard. But I wanted to speak just about some of the
46 things that you said, I can -- because I am a commercial
47 fisherman and have lived in the state all my life and
48 grew up in a fishing family, my heart, I am concerned
49 about the commercial industry.

50

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1 I also heard you say ours and yours and
2 we need to have some kind of bridge, bridge some kind of
3 gap between the State and the Federal entities. And
4 that's where, for me, coming into this forum, prior to
5 sitting on this Council, that's how I saw it, is the
6 Federal side, State side and then there's subsistence
7 somewhere else, us Natives -- I'm also Native in between,
8 where am I going to get what my inheritance or what I
9 deserve as Alaska Native, when am I going to get -- who's
10 going to feed me? This forum is bringing us, I think,
11 together and having you come and speak and reminding us
12 about your issues, my issues, bringing that before the
13 table and being very frank is real important and I
14 appreciate your comments.

15

16 MR. KOPCHAK: Thank you. Thanks for the
17 opportunity to speak.

18

19 CHAIRMAN LOHSE: Thank you, RJ. You got
20 us off the subject, I think we're going to try to stay on
21 Proposal 27 for the rest of the comments. I was going to
22 have you come back for customary trade but you went right
23 into it so thank you.

24

25 Sue, I have you down next, this is on 27,
26 right?

27

28 (Laughter)

29

30 MS. ASPELUND: Sue Aspelund, CDFU. I just
31 wanted to clarify because I didn't spend a lot of time in
32 our written comments, that our major concern with this
33 proposal as it is written is with enforcement. And I
34 appreciate the comments of the enforcement officer.
35 We're all very well aware that seasons are becoming more
36 restrictive, bag limits are becoming more restrictive
37 because of the fully allocated, fully utilized nature of
38 our fisheries and as we see population demands and
39 increases in non-resident and alien demands on our
40 resources, I think we're going to see increasing
41 restrictions and will see an increase of the necessity of
42 folks to take resources out of the traditional or the
43 existing seasons. And because of that, we just think it
44 makes it simpler, neater, cleaner, clarifies it for
45 everybody that there be a piece of paper involved as Devi
46 described, it just answers a lot of questions. We're
47 going to have questions, not only from enforcement
48 officers but from other members of the public that know
49 darn good and well that the seasons are closed and what's
50 that guy doing out there taking these fish.

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1 So to us it just simplifies it and
2 decreases hassles for everybody involved.

3
4 Thanks.

5
6 CHAIRMAN LOHSE: So to summarize, you
7 basically think that there should be a permit issued not
8 just a verbal conversation over the phone?

9
10 MS. ASPELUND: Right. And I frankly
11 don't have any idea what communication systems up river
12 are like. Out in Bristol Bay where I lived for 20 years,
13 the guys could -- the enforcement officers could be out
14 in the field for days on end and not have any
15 communication with the issuing delegating authority that
16 says it's okay for those people to be out. So if
17 everybody has something that they can just present then
18 it just seems like it makes it a lot simpler.

19
20 CHAIRMAN LOHSE: You probably don't know
21 the answer to this, I'd like to know, these kind of
22 functions are usually known about far enough in advance
23 that -- do you feel that it would be no hardship to get
24 the permit in advance or do these functions come up so
25 rapidly that -- well, maybe I can ask Wilson or somebody
26 else on that later.

27
28 MS. ASPELUND: Well, I think we've heard,
29 Devi, basically said that Gary Candelaria didn't feel
30 that that was an issue that they could get a timely piece
31 of paper faxed or whatever and technology being what it
32 is, you know, by e-mail or fax, it seems like it should
33 be doable.

34
35 CHAIRMAN LOHSE: Okay. Thank you. Any
36 other questions for Sue. Thank you, Sue. Taylor.

37
38 MR. BRELSFORD: Thank you, Mr. Chairman.
39 I'm Taylor Brelsford, I work with the BLM as a
40 subsistence coordinator. I wanted to return to one
41 comment that was offered from the Park Service and this
42 had to do with which manager would actually be the point
43 of contact in planning ahead for a ceremony of this sort.

44
45 The current regulation reads in this
46 paragraph B, it identifies the local fisheries manager or
47 the manager of that land, the conservation unit or other
48 lands. Devi's comment suggested that it should be the
49 river wide Federal in-season manager and quickly, as you
50 know, on the Copper River there's only one in-season

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1 manager to facilitate timely responses but there are
2 several land owners. On the Yukon River there are many,
3 many conservation units but only one in-season manager
4 located in Fairbanks. I think the suggestion here, it is
5 that it is better for the local land manager to be
6 working with the local community on ceremonial harvests
7 so that for the Park it would be the superintendent but
8 for the wild and scenic rivers, the Gulkana or Delta it
9 would actually be the BLM field office manager. So I
10 would suggest that there is a thoughtful reason for the
11 regulation the way it's written and that the point of
12 contact should remain the local unit manager rather than
13 being the Federal in-season manager who may have many
14 different conservation units to oversee.

15

16 So I think it's a very small point. And
17 I think that coordination and working together in the
18 Copper River is pretty easy, we don't have that many
19 players but this would be a statewide regulation and if
20 we were to apply that same idea on the Yukon we could
21 have a lot of trouble from the Yukon-Delta to the Yukon-
22 Charlie Monuments. So I think staying with the local
23 managers, working closely with the community is the better
24 approach here.

25

26 Thank you.

27

28 CHAIRMAN LOHSE: Any other questions for
29 Taylor. I've got some questions, so don't jump off so
30 fast. On that idea of the local land manager, I would
31 thin that the way things are set up today with the
32 communications and everything, no local land manager
33 would make a decision without contacting the person
34 that's in charge of fisheries on that land. I mean we
35 have -- let's just take Upper Copper, for example.

36

37 MR. BRELSFORD: Right.

38

39 CHAIRMAN LOHSE: The BLM manages the
40 Gulkana River, but Park Service has the decision-making
41 for the whole watershed for Federal waters for fish
42 management, they make the in-season fish decisions. I
43 would imagine that the BLM person would, at least,
44 contact the Park Service, the head of the division
45 because in our day and age of communications, most people
46 don't like to take authority for something anyhow if they
47 can't contact somebody else.

48

49 But do you see -- what I was going to ask
50 you, do you see where these things happen in such a hurry

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1 that it's needed to be done with just a phone call or do
2 we have -- do most of these things happen with enough
3 warning that there's time to get a permit since we would
4 deal with the local land manager, which is fairly close
5 to the communities?

6

7 MR. BRELSFORD: The first point had to do
8 with the coordination between land managers and having
9 assurance that a local fish biologist working with his
10 field manager wouldn't wander off without discussing the
11 status of that fish run with ADF&G and with the in-season
12 manager, I'm confident and I think there are examples of
13 a fresh water permit request on the Delta River and
14 another on the Gulkana where the fisheries managers
15 understand the need to treat it as a single stock and to
16 touch base so I do believe that is the practice and we
17 can have confidence about that.

18

19 Your second question had to do with prior
20 notice. And I think there's no question that a prior
21 notice requirement as proposed here is needed to manage
22 this, to have an opportunity to ensure that the
23 conservation purposes have been protected. I think
24 there's a legitimate discussion about whether a permit in
25 advance helps and is necessary or whether this notice in
26 advance and reporting after can work. I think there's
27 some obvious public support in the Copper Basin for
28 written permit in advance. I'm not sure about all
29 regions of the state, whether that solution is necessary
30 and appropriate. And, in particular, I'm kind of
31 influenced by the history of the potlatch, the ceremonial
32 and potlatch moose harvests that have been implemented by
33 both the State and the Federal programs across Alaska
34 since the Frank case in 1976. Those general require
35 prior notice but not a written permit and then a written
36 report afterwards. So what we're doing here does, in
37 fact, follow on the practice in regard to potlatch moose
38 harvests.

39

40 I think generally that has been workable.
41 There may, in deed, be special circumstances in
42 Southcentral where we would want to be more cautious in
43 the paper trail, but I guess I want to at least put on
44 the table the fact that 20 years, 25 years of experience
45 in the potlatch moose arena has worked with the
46 protections that are outlined here for ceremonial taking
47 of fish.

48

49 CHAIRMAN LOHSE: Thank you, Taylor. I
50 kind of go along with you on that from that standpoint.

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1 And the thing is we always have the opportunity if there
2 is a problem to institute something else. Do you have
3 any other comments that you'd like to make on this.

4

5 MR. BRELSFORD: Mr. Chairman, with your
6 indulgence, Bill Knauer is recounting to me some recent
7 experiences with rapid turnaround on potlatch requests
8 and maybe that would be specific information to your
9 question of timing.

10

11 CHAIRMAN LOHSE: Can I.....

12

13 MR. BRELSFORD: Could we ask him to.....

14

15 CHAIRMAN LOHSE:ask you, Bill, to
16 fill us in on that.

17

18 MR. KNAUER: Bill Knauer from Office of
19 Subsistence Management. You were asking about whether or
20 not there is adequate lead time to issue a permit and so
21 on. As with all of our requests, they vary. The Federal
22 Subsistence Board had a request this season for the
23 harvest of silver salmon in Southeast and there would
24 have been adequate time there to issue a permit. In
25 another case, I believe it was the community of either
26 Kaltag or Nulato, there was a death in the village and
27 the harvest was requested for a ceremony that was going
28 to occur less than 24 hours when we received the notice.
29 So there are conditions that fit both circumstances,
30 where a verbal approval over the phone is the only thing
31 that would really meet the needs and there are others
32 where there would be ample time to issue a written a
33 letter or permit.

34

35 CHAIRMAN LOHSE: But basically what
36 you're saying is there are incidences of very short
37 notice that all there is time to do is have the verbal
38 contact?

39

40 MR. KNAUER: Yes, there are.

41

42 CHAIRMAN LOHSE: Thank you. Any other
43 questions. Tim Joyce.

44

45 MR. JOYCE: Mr. Chairman, and rest of the
46 Board. My name is Tim Joyce. I'm with the -- a
47 subsistence fisheries biologist for the Cordova Ranger
48 District and on addressing Proposal 27, we also had some
49 discussions within our staff on the way the proposal is
50 written. And probably the one issue, since this is a

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1 statewide issue it focused on a problem, that is, in some
2 regions within the state there are permits required for
3 subsistence fishing, other regions do not require a
4 permit. This particular proposal then would, in fact,
5 take those regions that do require a permit and now have
6 an instance where there is not a permit required and our
7 concern was, you know, how was enforcement going to deal
8 with this. If they're checking people on a river where
9 there's permits required for the whole region, to come
10 across an individual without a permit, is how are they
11 going to know if they're not informed, if it's on a short
12 notice for example, you know, I just heard 24 hours, if
13 somebody gets a verbal okay, trying to make enforcement
14 aware of that in a 24 hour period if they're out in the
15 field, that may not be practical or possible. So
16 therefore we could have the potential for mistakes to be
17 made and maybe enforcement action that shouldn't be
18 occurring occur.

19

20 So that was a concern we had.

21

22 And the other thing was that if you had a
23 permit that was issued, generally speaking on a permit it
24 does require the species, the number and all those items
25 that were identified to be on a written report are on
26 that permit. The only thing that would be lacking was
27 the decedent's name. And so we saw that by providing a
28 permit with all that information readily there to be
29 supplied, that you'd be creating an undo burden upon the
30 users to supply a report then at a later date with a full
31 written report when all's it is is just to fill out some
32 blanks on a permit.

33

34 So in our opinion we thought a permitting
35 system might be a more workable system especially in
36 those areas where permits were required.

37

38 CHAIRMAN LOHSE: Any questions.

39

40 MR. JOYCE: Thank you.

41

42 CHAIRMAN LOHSE: Thank you. Okay, I
43 think that takes care of all of the public comment except
44 for the written public comment. Wilson.

45

46 MR. JUSTIN: Thank you. If you don't
47 mind I'd like to add a comment or two from a tribal,
48 regional perspective.

49

50 It's been very interesting following the

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1 discussion. I enjoy the development of the question.
2 I'd like to speak in terms of the Upper Copper River
3 region, the villages that I'm most familiar with up in
4 that area on this particular issue.

5
6 I'll start off by saying that it should
7 be recognized that as far as ceremonial activities in our
8 region there are two kinds of potlatches. There is the
9 funeral potlatch and there's the memorial potlatch. And
10 the funeral potlatches are related to death. So when a
11 person passes away in a village a party or a potlatch
12 happens within several days and it's not stringent in
13 terms of traditions and practice like a memorial
14 potlatch. A memorial potlatch is planned for years
15 sometimes, depending on how long the family and the
16 relatives need to acquire the large amounts of goods to
17 properly do a memorial potlatch.

18
19 So on one hand what I'm saying is that
20 the permit idea for a memorial potlatch is good in terms
21 of conservation, you have plenty of time to access the
22 system, you have plenty of time to access the system, you
23 have plenty of time to explain what you need when and
24 what have you.

25
26 A funeral potlatch which is random
27 doesn't carry that, it will happen irregardless of who
28 the person is, death will visit.

29
30 I don't quite know how to address the
31 question of conservation and accountability in terms of a
32 funeral potlatch. I do know that in a memorial potlatch
33 because of the adherence to protocol in terms of
34 traditional law, the family or the tribal members who are
35 involved in memorial potlatch would not have a problem
36 accessing the system in terms of permits or any kind of
37 written materials. That's not the same, you can't say
38 that for a funeral potlatch.

39
40 So I'd like to leave that for your
41 consideration and I think that the issue that we're
42 really looking at in terms of numbers is where I have a
43 problem. I don't know the mechanism why 25 came up.
44 Some potlatches that I've been familiar with where a lot
45 of fish has been served, they've served several hundred,
46 some maybe only half a dozen. So I don't know quite
47 where 25 hooks into the equation. But I know that any
48 time you use numbers you set off alarms all the way down
49 the river in terms of the people who are using the
50 resources.

00070

1 So I'd like to end with one other comment
2 on the issue. When you're talking numbers, nobody has
3 ever sat down and counted and put a value on the illegal,
4 strictly illegal canning of salmon on the rivers up there
5 by tourists. And I say, and I'm probably one of the few
6 people who would willingly in public say this, I say that
7 the illegal take and use in canning of salmon from our
8 rivers amount to more than 15 to 20 percent of the entire
9 stock, so we're talking a significant number in my
10 estimation. So 25 doesn't sound like much when you're
11 talk about the kind of illegal uses that's already
12 occurring which is not counted in terms of allocation.
13

14 So if you're a legal user, you already
15 have a number, if you're an illegal number you don't.
16 And I think that needs to be accounted for.

17
18 Thank you.

19
20 CHAIRMAN LOHSE: Thank you. Bob.
21

22 MR. CHURCHILL: Wilson, as a point of
23 clarification. At our last meeting we discussed that
24 very subject and we kicked around the idea of the RAC
25 working with the advisory committees to develop maybe
26 some action items that would allow us to address that. I
27 share your concern.

28
29 I've talked to people in \$350,000
30 motorhomes that are loaded down with canned salmon out of
31 our rivers and you know they're not going to eat that.
32 They're going down to the Lower 48 to sell it. And I
33 agree, I think all the anecdotal stuff supports it's a
34 very large percentage of the in-river take. But just to
35 assure you, we've discussed maybe doing some work with
36 the State advisory committees and the RAC and folks like
37 yourself to address those issues. I think it's a bigger
38 problem than a lot of people realize. I share your
39 concern.

40
41 MR. JUSTIN: Thank you.
42

43 CHAIRMAN LOHSE: Thank you, Wilson. I'm
44 real glad you brought that up because it just doesn't
45 happen with canning, it happens with frozen stuff that
46 goes out of Cordova. When you go out to the airport and
47 you see somebody that's been here for 10 days
48 sportfishing and they go out with 11 boxes of silver
49 salmon fillets, you wonder how they legally caught that
50 many silvers in that length of time.

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1 And on the funeral part of it, my brother
2 lost his father-in-law this summer and they had a
3 potlatch up there for him and there wouldn't have been
4 time to have secured the permit and everything else, they
5 took a moose for it. The fish came out of the current
6 fishery that was going on, you know, in the middle of the
7 subsistence fishery there was no problem coming up with
8 the fish. But I can understand, we have two different
9 kinds of things that we're talking about here. One you
10 plan for, one none of us plan for.

11

12 Susan.

13

14 MS. WELLS: Well, I'm concerned about a
15 permit of some sort just so that -- I mean I've been
16 fishing on the Kenai with an educational net and every
17 time I'm down there I have law enforcement coming down to
18 check on my fish. And so, you know, having that book to
19 show them, you know, it really helps me. And it also
20 helps the passer by that gets pretty upset that I have my
21 net, I've got 10 fathoms there in the river. I love
22 that.

23

24 (Laughter)

25

26 MS. WELLS: But it really helps, it does,
27 it helps for me to have that permit or that book there
28 visible for them to see that I am legitimate. And I
29 think that having some kind of system in place so that
30 there isn't abuses and disrespect for a funerary
31 potlatch, but I'd like to see some kind of permit or
32 something that we could show him when he comes down with
33 the dog, you know, and I think that would be very
34 important.

35

36 But what I was going to ask you, would
37 that be something that would be disrespectful or
38 offensive?

39

40 MR. JUSTIN: No, not on the basis of a
41 memorial potlatch. We have precedent for keeping track
42 of fishing activities, normally Alaska Department of Fish
43 and Game, State of Alaska, but in 1996, we were down
44 here, we asked the Alaska Department of Fish and Game for
45 authority to maintain and run fishwheel programs within
46 the village and that was granted to the villages in the
47 Copper River region. That turned out extremely well in
48 terms of getting your local residents, the Natives right
49 in the community to report their catch. It worked very
50 much to our benefit in terms of keeping track of the fish

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1 and the kinds of fish that was caught and who was using
2 them. It helped us at the tribal level to determine the
3 use and consume of the fish and it helped the Fish and
4 Game by taking an administrative burden off of them.

5

6 So that was one example that worked out
7 very well. I suspect that you would have the kind of
8 cooperation with memorial potlatches and ceremonial uses
9 under that particular potlatch. I don't quite -- I can't
10 quite see how we would work a funeral potlatch which is
11 very random.

12

13 MS. WELLS: I'm thinking in our area, if
14 there was a funeral, the provisions of fish would often
15 come through the tribe, the tribal organization. Would
16 that work to have it, in other areas, to have the tribal
17 organizations oversee a funerary?

18

19 MR. JUSTIN: That would be a
20 recommendation I would make that that probably might
21 work. Because that gives you some means of access and
22 some means of accountability. Because I think what we
23 really, I think everybody is really concerned here about
24 the issue of enforcement.

25

26 MS. WELLS: Uh-huh.

27

28 MR. JUSTIN: From my side of the table
29 I'm not concerned about enforcement in terms of making
30 field determinations on the validity of the catch. My
31 problem with the question of enforcement is any time you
32 run into an enforcement issue the standard answer is to
33 chase a small problem with larger and larger funds and
34 more and more people enforcement. So in this particular
35 issue, I don't really see the issue as criminal in any
36 way, shape or form. I see the issue is the ability to
37 make a decision at the field level by enforcement
38 officers that will take care of the issue at that time
39 without follow up problems.

40

41 You know, some of these people if they
42 get cited, some of these people may not be able to read
43 or write. We ran into that problem in the '70s with
44 fishwheels. So my concern with enforcement is that we
45 don't create a greater problem, a separate problem from
46 the actual accountability issue that we're looking at.
47 So the solution may be worse than the problem.

48

49 MS. WELLS: Thank you.

50

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1 CHAIRMAN LOHSE: Thank you. Any other
2 questions for Wilson. Thank you Wilson.

3
4 MR. JUSTIN: Thank you.
5

6 CHAIRMAN LOHSE: Okay. That takes care
7 of all the public comments. Do we have written public
8 comments.

9
10 MS. WILKINSON: Mr. Chairman, we do have
11 written public comment. I would also like to note that
12 it's after 12:00 o'clock, considerably and just so you'll
13 know.

14
15 CHAIRMAN LOHSE: So should we read in the
16 written public comment and we will break for lunch?

17
18 MS. WILKINSON: Okay.
19

20 For Proposal 27 there were four written
21 public comments. Mr. Ed Warren, II, Klukwan elder wrote
22 in opposition to this proposal. He stated, for those of
23 us who support the goal of fish and wildlife, I believe
24 that the existing guidelines are sufficient for
25 subsistence use whether it is customary, traditional or
26 for memorial potlatches.

27
28 The Wrangell-St. Elias National Park
29 Subsistence Resource Commission supports this proposal
30 with the modification that the organizer or designee of
31 the ceremony requests the number of fish needed from the
32 in-season manager. The in-season manager would then
33 consider the guidelines of the proposal.

34
35 The Copper River Native Association
36 supports this proposal for communities to take fish for
37 religious and ceremonial and potlatch purposes.

38
39 Cordova District Fishermen United
40 supports Proposal 27 with modification. To enable
41 enforcement and to account for resource removals, we
42 support modification of Section D to require a permit
43 specifying the harvesters name and address, the number
44 and species of fish to be taken, the date and location of
45 the harvest as well as the name of the decedent for each
46 person harvesting under this regulation. This would
47 result in the need to delete Section C. Harvest
48 reporting should be required within a reasonable period
49 of time and there should be a limit of one permit issued
50 for each specific traditional religious ceremony.

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1 And that concludes the written public
2 comments.

3
4 CHAIRMAN LOHSE: Thank you. With that,
5 that gives us something to chew on over lunch. We'll
6 come back to this subject after lunch. What time is it
7 Ann?

8
9 MS. WILKINSON: It's a quarter after.

10
11 CHAIRMAN LOHSE: Quarter after 12:00,
12 let's be back at 1:30.

13
14 (Off record)

15
16 (On record)

17
18 CHAIRMAN LOHSE: If you haven't signed in
19 yet, sign in for sure. We're going to try to quit at
20 5:00 or a little bit before so they can set up for dinner
21 tonight so we're not going to run over this evening.

22
23 We're going on now with Proposal 27. For
24 deliberation, we need a motion to put it on the table.
25 Do I hear such a motion from a member of the Council?

26
27 MR. CHURCHILL: So moved.

28
29 CHAIRMAN LOHSE: It's been moved to put
30 Proposal 27 on the table. Do I hear a second.

31
32 MS. WELLS: Second.

33
34 CHAIRMAN LOHSE: It's been moved and
35 seconded. Wait a second, I've lost myself. We don't
36 need -- now we go into deliberations, we don't need to
37 vote on putting it on the table, we just have a motion to
38 put it on the table, okay, so we're going into
39 deliberations.

40
41 Council members questions you want to ask
42 anybody, discussion between yourself, between each other,
43 recommendations, changes, modifications, anything like
44 that. Do I hear from any of the Council members at this
45 point in time?

46
47 MR. ELVSAAS: Mr. Chairman.

48
49 CHAIRMAN LOHSE: Fred.

50

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1 MR. ELVSAAS: I agree with the proposal.
2 I would like to see some kind of a permit system, even if
3 it's just a handwritten permit from the manager. Whoever
4 gets the permission to take the fish, I could understand
5 where, if the enforcement people came out and said, hey,
6 you got fish and you have no permit there could be some
7 terrible misunderstandings of what's going on and the
8 purposes.

9
10 But as it is I just want to state my
11 concern and I would suggest we approve this proposal and
12 send it on to the Board.

13
14 Thank you.

15
16 CHAIRMAN LOHSE: Any other comments from
17 Council members.

18
19 MR. HICKS: Mr. Chair.

20
21 CHAIRMAN LOHSE: Oh, have you got some
22 testimony on this one?

23
24 MR. HICKS: Yes.

25
26 CHAIRMAN LOHSE: With the permission of
27 the rest of the Council -- okay.

28
29 MR. HICKS: My name is Joneal Hicks. I
30 represent Chistochina and Mentasta. I work with the.....

31
32 MS. WILKINSON: Excuse me, you need to
33 turn your mike on.

34
35 CHAIRMAN LOHSE: Hit the little -- there
36 you go. Now, start over.

37
38 MR. HICKS: Okay. My name is Joneal
39 Hicks. I represent Chistochina and Mentasta. I work for
40 Chistochina, Katie John, my grandmother. I do have,
41 let's see, some clarification to give, I guess, maybe
42 clarification or maybe an explanation as to Proposal 27.

43
44 Well, anyway, although I have no
45 objection to the proposal, in other words, I do agree
46 with it. It's just that under D, let's say, I have a
47 question as to what you mean by rural resident? As far
48 as I'm concerned, there is no State definition for rural
49 and basically it could mean pretty much anybody. And the
50 State has been battling that definition of rural versus

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1 urban, who is this, who is that. I think you need to get
2 more specific in that regard as to who it is you're
3 talking about.

4

5 And when it comes to C&T, in other words,
6 it goes on to customary and traditional. When C&T first
7 came out it included to say the eight villages of the
8 AHTNA region, automatically. Now, the number has grown
9 to 23 and it's still growing. Delta Junction, for
10 instance, just wanted a C&T and they were opposed or they
11 were excluded, let's say, at the Park Service meeting,
12 you know, I have a problem with that.

13

14 Sure, for religious, cultural and these
15 purposes, I mean you know OJ Simpson could set up a
16 church here and be eligible under this definition and
17 that's my cause for concern. Who are you specifically
18 referring to, who are you talking about? Traditional
19 potlatch is me, my village, that's how I was born and
20 raised and I think it should be geared toward that
21 purpose and that purpose only specifically. Religious
22 could be anything, you know.

23

24 You know, I just want to say, don't get
25 misconstrued or -- well, anyway, somebody might come
26 along later and say, hey, I can sue you for it, so, my
27 concern is to, you know, define what you're talking
28 about.

29

30 Thank you.

31

32 CHAIRMAN LOHSE: Bob.

33

34 MR. CHURCHILL: Just so that I am clear
35 in understanding what you're advising us. Is what I hear
36 you saying is that if a people have a long history of
37 using this resource for a potlatch or for a funeral
38 service, then you'd be in favor of it.

39

40 MR. HICKS: Yes.

41

42 MR. CHURCHILL: However, if the four of
43 us threw up a church and said, way to go, you wouldn't
44 be?

45

46 MR. HICKS: According to this language
47 you would be eligible.

48

49 MR. CHURCHILL: Okay. I thought that
50 what's you said, I just wanted to clarify. Thank you

00077

1 very much.

2

3 CHAIRMAN LOHSE: Susan.

4

5 MS. WELLS: But on the same hand, if the
6 four of us were to set up a church we would have to go
7 through the process of proving customary and traditional
8 use so is that clear enough? I mean.....

9

10 MR. HICKS: Again, it started with eight
11 villages in the AHTNA region and now it's grown to 23.

12

13 MS. WELLS: Uh-huh.

14

15 MR. HICKS: When is the C&T thing going
16 to stop? You know, pretty soon it's going to include
17 Anchorage.

18

19 MS. WELLS: Kenai first.

20

21 MR. HICKS: You know what I mean?

22

23 MS. WELLS: Yeah, I do.

24

25 MR. HICKS: That's my concern.

26

27 MS. WELLS: Uh-huh.

28

29 CHAIRMAN LOHSE: I can understand your
30 concern, but at the same time I can see a lawsuit coming
31 a lot faster if you would try to define it to a certain
32 group of people, a certain religion than -- what this
33 basically says is it has to be a rural resident with
34 customary and traditional use in the area where the
35 harvesting will occur. And you're right, that customary
36 and traditional has expanded tremendously but most rural
37 residents do not have a customary and traditional use for
38 funerary potlatch like the eight villages that you're
39 talking about although there are individuals who don't
40 live in the eight villages that still have that
41 tradition, even if they're not in the villages properly.
42 I mean there are -- well, I'll use an example of my in-
43 laws that lived in Kenny Lake.

44

45 MR. HICKS: Yeah.

46

47 CHAIRMAN LOHSE: Or the people that lived
48 on the Lower Tonsina, you know, that were not actually --
49 I think Lower Tonsina is a village but.....

50

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1 MR. HICKS: Well, that was.....

2

3 CHAIRMAN LOHSE: But Kenny Lake is not.

4

5 MR. HICKS: It was at one time.

6

7 CHAIRMAN LOHSE: Yeah, it was at one
8 time. And so it's pretty hard to write exclusionary laws
9 without ending up with a lawsuit.

10

11 MR. HICKS: But you get the idea, though,
12 is that it's going to be misused, misconstrued.

13

14 CHAIRMAN LOHSE: It's possible that it
15 will be misused. If it's misused, that's the time that
16 you address the misuse. You can't write the law in a way
17 that it's exclusionary without ending up opening up the
18 door for a lawsuit to start off with. If you see a
19 problem you go back and address the problem.

20

21 MR. HICKS: Okay. So let's say maybe
22 these 23 C&T communities should be left as is. Let's
23 stop the C&T stuff.

24

25 CHAIRMAN LOHSE: And not expand it?

26

27 MR. HICKS: And not expand it, yes.

28

29 CHAIRMAN LOHSE: Well, it'd be nice if we
30 could say that.

31

32 MR. HICKS: Well, you know what I'm
33 getting at.

34

35 CHAIRMAN LOHSE: Yes, I know exactly what
36 you're getting at but we can't say that, they will end up
37 going through the regulatory process and what the
38 regulatory process.....

39

40 MR. HICKS: And it goes back to.....

41

42 CHAIRMAN LOHSE:decides at that
43 time, you know, and.....

44

45 MR. HICKS: I agree.

46

47 CHAIRMAN LOHSE:it's like Wilson
48 says, you know, laws change, regulations change, we can't
49 pick a point in time and make things static, much as we'd
50 like to. It would sure solve everything, we'd say, ah,

00079

1 we made all of the decisions nobody needs to make any
2 decisions from now on.

3

4 MR. HICKS: We're going back to the State
5 again.

6

7 CHAIRMAN LOHSE: Yeah.

8

9 MR. HICKS: And then when the State
10 starts managing mosquitos, believe me, there might be
11 more mosquitos.

12

13 (Laughter)

14

15 CHAIRMAN LOHSE: But from the standpoint
16 though, as far as the rest of the proposal is concerned,
17 if I understood right, you support the proposal except
18 for the fact that it basically.....

19

20 MR. HICKS: It needs to be defined.

21

22 CHAIRMAN LOHSE:it's too broad.

23

24 MR. HICKS: It needs to be defined.

25

26 CHAIRMAN LOHSE: Yeah. Well, it is
27 defined but the definition you feel needs to be smaller?

28

29 MR. HICKS: Yes.

30

31 CHAIRMAN LOHSE: Yeah. Any other
32 questions. Thank you.

33

34 MR. HICKS: Thank you.

35

36 CHAIRMAN LOHSE: Okay, back to what we
37 were talking about before. Any other comments or
38 deliberations from -- Bob.

39

40 MR. CHURCHILL: Yeah, I guess where I am
41 struggling is the idea of permitting up front and, again,
42 not with the idea that or a concern that there will be
43 abuse but more for the protection of the user,
44 clarification, not creating problems between enforcement
45 and folks who, by definition, are not in the best of
46 situation when they're using one of these permits. I
47 mean they're obviously at a sensitive time.

48

49 I'm trying to balance that in my own
50 mind. Wilson Justin's testimony was helpful in the idea

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1 of the difference between memorial and a funeral
2 potlatch. I guess my feeling is at this point is if we
3 could have some kind of minimal permitting process that
4 we could streamline that would provide for the
5 clarification and protection of the user and the
6 enforcement people would seem to be helpful but I don't
7 want it to be burdensome either on the user. So that's
8 the piece of it I am struggling with. Not whether to
9 approve it in general, the concept, at all. That's not a
10 concern. But that's kind of what I am struggling with at
11 this point.

12

13 How do we do it in a way that creates a
14 system where, although the users, the people that need
15 fish for a potlatch, a funeral potlatch can get it and we
16 can provide some kind of piece of paper that will allow
17 them not to do it without concern, quickly. And Taylor's
18 suggestion that we embody a system that works with a
19 local land manager would seem to allow for that and
20 that's where I'm at. And maybe someone how knows how
21 these systems work better than I could comment to it.
22 But that's where I am at with it and it's my main concern
23 with what we do with this now.

24

25 CHAIRMAN LOHSE: Thank you, Bob. That's
26 one of my concerns too. Somebody gave and I can't even
27 remember who it was gave me a very good suggestion. I
28 think this can be handled and I don't even know if we
29 need to put it in the regulations as much as we need to
30 make a suggestion to the Board that something like this
31 be put in place. And maybe we can't come up with the
32 specifics because it's statewide, but the suggestion was,
33 since most of these are all handled through a community
34 or something like that, we could have preprinted permit
35 forms, blank preprinted permit forms and the different
36 communities or villages or tribes could have them on hand
37 and what they need to do is they need to fill them out,
38 call the information into the land owner or the land
39 manager, not owner but to the land manager, they fill it
40 out so there's a duplicate, he gives them a number to put
41 on their permit form and they've got a permit in hand.
42 They don't have to go to them, they don't have to do
43 anything except make a phone call because the paper's
44 already there, all it needs is filled out with names,
45 particulars, everything else, call the land manager, he
46 fills it out on his gives them a permit number to write
47 in the blank and they've got a permit on hand.

48

49 MR. CHURCHILL: Yeah. And the other
50 piece of that, quite frankly, was fax machines. If we

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1 have a really simplified permit form, that thing can be
2 faxed and in-hand quickly. So, yeah, that would seem to
3 resolve both the concerns expressed by enforcement and
4 the rest of the testifiers. I think with that
5 recommendation we could move forward. I'm ready to vote
6 on 27.

7

8 CHAIRMAN LOHSE: The only other
9 suggestion I would make on that, Bob, is that permit form
10 also doubles as the report. Because to ask people to
11 make a written report and include all the information
12 they're going to forget some of it. If the permit has --
13 if it's a matter of just filling in the blanks at the end
14 and sending it within 15 days, that's a lot easier.

15

16 But I think we could go ahead and support
17 the proposal with that kind of a suggestion to the Board
18 that we feel that they put something like that in place,
19 that will meet the needs of all the different areas in
20 the state.

21

22 Anybody else.

23

24 MR. ELVSAAS: Mr. Chairman.

25

26 CHAIRMAN LOHSE: Fred.

27

28 MR. ELVSAAS: You know one of the
29 problems with permits being the report form, under the
30 State subsistence fisheries, I carry the permit with me
31 when I'm fishing. When I get through fishing that
32 permit's not worth reading.

33

34 (Laughter)

35

36 CHAIRMAN LOHSE: I know.

37

38 (Laughter)

39

40 MR. ELVSAAS: There's now way I could
41 fill out information on that.

42

43 CHAIRMAN LOHSE: Yeah.

44

45 MR. ELVSAAS: What I have been doing is I
46 go and get a new form and fill that out.

47

48 CHAIRMAN LOHSE: Yeah.

49

50 MR. ELVSAAS: But if you're really

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1 fishing you're getting that permit wet and so forth.

2 It's just a comment, thank you.

3

4 CHAIRMAN LOHSE: Well, a duplicate's
5 always available. Susan.

6

7 MS. WELLS: So I'm hearing that in Item
8 D, no permit is required for taking under this section,
9 that's something that I'm hearing that should be changed.
10 And recommending to the Board that either the permit
11 shall be issued by a local land manager or a community
12 entity and I think that would satisfy -- and then maybe
13 the process of how or what that permit -- well, I think
14 something that's pretty general for the whole state
15 because we're talking state here.

16

17 CHAIRMAN LOHSE: Yeah.

18

19 MS. WELLS: My other concern would be
20 under Item A, no more than 25 salmon. But in talking
21 with Mr. Knauer, that there's often times when a request
22 is made and it's for more than 25, it's granted. This is
23 a general -- this figure, I'm hearing, is a general
24 figure. That it's usually sufficient but maybe in some
25 cases not, that it can be overruled by the Board, the
26 Federal Subsistence Board, in a timely fashion is what he
27 said.

28

29 CHAIRMAN LOHSE: I think you're correct
30 on that Susan. And I think that basically if I read this
31 correctly because it says, does not violate recognized
32 principles of fisheries conservation. The field manager
33 could actually give less than 25 or 25 by this. One
34 possible thing is and this is something that maybe we
35 should put some modifications in is, you could just put a
36 modification that just says no more than five steelhead
37 may be taken and leave the salmon up to the local
38 manager.

39

40 MS. WELLS: The delegate -- yeah,
41 the....

42

43 CHAIRMAN LOHSE: And the same one up
44 there, if you're going to take out no permit is required
45 for taking under this section then you should probably
46 put the fact that in, A, the person or designee
47 organizing the ceremony contacts the appropriate local
48 Federal fisheries manager prior to attempting to take
49 fish.

50

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1 MS. WELLS: Or salmon.

2

3 CHAIRMAN LOHSE: Yeah, to take fish and
4 obtain the permit, you know, or something on that order.
5 Because if you're going to take no permit out of the
6 bottom you got to add it into A. And then we can just
7 instruct them that we feel that that permit should be
8 made as easy to obtain as possible without having to go
9 someplace. That it can be obtained over the telephone
10 for a lack of a better way of putting it.

11

12 MS. WELLS: Uh-huh.

13

14 CHAIRMAN LOHSE: But you're right, you
15 can't tell them to do that without changing D, and if
16 you're going to change the other one you'd have to change
17 it like that. And it is covered under B, which says that
18 it will not violate recognized principles of fisheries
19 conservation. So if anybody wants to make a modification
20 to this proposal, this is the time to do it otherwise
21 we'll have to vote on the proposal as it stands and just
22 make a suggestion at the end of it.

23

24 MS. WELLS: If our big concern is -- I
25 mean I heard one of the agencies talking about how the
26 local areas can delegate, you know, allowing them to
27 delegate the number because, you know, in line with
28 conservation then we should probably take out the
29 verbiage no more than 25 salmon or than 25 salmon and
30 just leave the no more than five steelhead. Otherwise
31 we've got a regulation that's iffy or can be flexed
32 either way.

33

34 CHAIRMAN LOHSE: Yeah. Well, if that's
35 the case if you want to make a modification, make a
36 motion to that effect and we'll see if we want to modify
37 this.

38

39 B does say the local Federal fisheries
40 manager may restrict the number, species or place of
41 taking if necessary for conservation purposes right
42 there.

43

44 MS. WELLS: But it says restrict, and
45 restrict seems less than 25, what if there's the need for
46 more than 25.

47

48 CHAIRMAN LOHSE: Okay. Yeah, change
49 restrict to establish.

50

00084

1 MS. WELLS: Establish, yeah, that's a
2 good deal.

3
4 CHAIRMAN LOHSE: Okay.

5
6 MS. WELLS: Well, that's -- well, yeah,
7 then that takes care of the 25, too, and the five.

8
9 CHAIRMAN LOHSE: Right.

10
11 MS. WELLS: May establish.

12
13 MR. CHURCHILL: With the language
14 remaining no more than five steelhead may be taken.

15
16 MS. WELLS: Oh, yeah, I would agree.

17
18 MR. CHURCHILL: Yeah, because the
19 concern, conservation concern we've heard consistently is
20 about the steelhead.

21
22 MS. WELLS: Uh-huh.

23
24 CHAIRMAN LOHSE: Okay, that takes care of
25 that part of the modification if we make a motion and
26 second it. Does anybody want to modify the permit part
27 of it to address the concerns or do we just want to take
28 and strike the no permit is required for taking under
29 this section, the harvester must be an Alaska rural
30 resident with customary and traditional use and leave it
31 to them to come up with a permit system under A.

32
33 MR. CHURCHILL: And if we include the
34 discussion regarding the desire to have a permit, I'd be
35 comfortable with that.

36
37 CHAIRMAN LOHSE: Okay, I would too.

38
39 MS. WELLS: Or local land manager shall
40 issue -- or shall.....

41
42 CHAIRMAN LOHSE: Even if it just says
43 contacts appropriate local Federal land manager prior to
44 attempting then it's up to them to make sure there's some
45 kind of permit in hand.

46
47 MS. WELLS: For the permit.

48
49 CHAIRMAN LOHSE: We don't have to say
50 what kind of a permit.

00085

1 MS. WELLS: Unh-unh.

2

3 CHAIRMAN LOHSE: But if we strike no
4 permit is required, then that indicates that we think
5 there should be a permit of some kind. And then we can
6 include our discussion.

7

8 MS. WELLS: Uh-huh.

9

10 CHAIRMAN LOHSE: Okay. Do I hear a
11 motion to modify this proposal in the direction that
12 we've talked about?

13

14 MS. WELLS: So moved.

15

16 CHAIRMAN LOHSE: Susan, would you read
17 then how you would read this after it was modified?

18

19 MS. WELLS: Under A, last line, to read,
20 no more than five steelhead shall be taken. And under B,
21 change the word restrict on the second to the last line,
22 the local Federal fisheries manager may establish the
23 number, species or place of taking if necessary for
24 conservation purposes.

25

26 MR. CHURCHILL: Second.

27

28 CHAIRMAN LOHSE: And then D.

29

30 MS. WELLS: Yeah, I would like.....

31

32 MR. CHURCHILL: Gabe.

33

34 CHAIRMAN LOHSE: Okay, let Susan finish
35 here and then I'll get Gabe.

36

37 MS. WELLS: I'd like to see that no
38 permit is required for taking under this section,
39 however, stricken with the suggestion that the user or
40 the harvester, whatever the proper word would be, be
41 required to consult the local land manager. That's not
42 permanent words, something to the effect.

43

44 CHAIRMAN LOHSE: That's already in A.
45 See, he has to contact the local land manager.

46

47 MS. WELLS: Fine.

48

49 CHAIRMAN LOHSE: So we don't need that.

50

00086

1 MS. WELLS: So it would just be striking
2 that phrase.

3
4 CHAIRMAN LOHSE: Okay.

5
6 MS. WELLS: So it would be starting with
7 the harvester.

8
9 CHAIRMAN LOHSE: Okay. I'm going to get
10 a second, if possible, then I'll.....

11
12 MR. CHURCHILL: Second.

13
14 CHAIRMAN LOHSE: Okay, it's been
15 seconded. Now, Gabe, was there something you would like
16 to add to our discussion at this point?

17
18 MR. G. SAM: Yes. Mr. Chair, I'm trying
19 to decipher what's going on here and trying to use some
20 of the discussions we had with the Alaska Native
21 subsistence halibut working group, we came across this
22 very same issue and first of all I don't think you could
23 just use local -- I mean, just harvester, it has to be
24 local harvester, within the area that you are fishing.

25
26 And you're saying, get permission from
27 the local land manager, I'm not exactly sure of the
28 politics here in this particular area but I think the
29 tribes should have something to say about that, the
30 tribal councils or whatever council that is being used
31 here, they should have something to say about that. It's
32 important that, you know, the people that use the
33 resource out here are involved in the decision-making
34 process. I agree that, you know, the agency is the one
35 that's going to be overseeing the resource, but, you
36 know, just in good faith of using the tribal village
37 councils or -- what we did with the halibut issue was the
38 tribal councils will come up with at least 10, you know,
39 within that area that will be harvesters for funeral and
40 memorial potlatches. I'm glad that Mr. Wilson
41 distinguished what's memorial and what's funeral because
42 there's a big difference between memorial and funeral.
43 Funeral is usually pretty fast and so it's how that works
44 with the tribal council is they'll have a list of people
45 that -- and the law enforcement will also have that same
46 list of people that is qualified to harvest for the
47 community and so if they run into them out there and they
48 say well, I'm harvesting for this funeral potlatch then
49 they just look on their list and there they are.

50

00087

1 So that's how we resolved that issue.
2 And I just wanted to -- but I couldn't emphasize more
3 that the tribes need to be involved in this.

4
5 Thank you.

6
7 CHAIRMAN LOHSE: Thank you, Gabe. I
8 think that's kind of what we're envisioning.

9
10 MS. WELLS: Uh-huh.

11
12 CHAIRMAN LOHSE: Is the fact that permits
13 should be already in their hands and all they need to do
14 is fill the information out and get it to the local land
15 manager. And they don't even have to change paper,
16 they've already got it and that would be through the
17 communities or tribes or whatever organization that they
18 were going through like that. So from that standpoint, I
19 think it would work the same way. The idea of them
20 having a list ahead of time would sure be a helpful thing
21 to have. But it should be simple and it should be easy
22 and it should be quick for a funerary one. There
23 shouldn't be any necessity to hold anything up.

24
25 MR. G. SAM: Mr. Chair, I just couldn't
26 distinguish who was the local land manager, you know, it
27 has an authoritative kind of tone to it.

28
29 CHAIRMAN LOHSE: Well.....

30
31 MR. G. SAM: Versus getting permission
32 from your own tribe to.....

33
34 CHAIRMAN LOHSE: But it still takes --
35 this can only take place on Federal land.

36
37 MR. G. SAM: Yes.

38
39 CHAIRMAN LOHSE: It's not like the
40 halibut which takes place in the waters of the ocean. It
41 takes place on Federal land and we have -- like down here
42 in Cordova, the local land manager is the Forest Service.
43 In Wrangell-St. Elias, the local land manager is the
44 National Park. In Gulkana, Tango Lakes area, the local
45 land manager is the BLM. And they would be the ones that
46 you would have to contact to get your, you know, to let
47 you know what you were going to be doing on the land that
48 they manage.

49
50 MR. G. SAM: It still has the same

00088

1 cultural protocol to it though.

2

3 CHAIRMAN LOHSE: Right. But it still has
4 to take place on Federal land managed by one Federal body
5 or the other.

6

7 MS. WELLS: I think that the wording in
8 A, it says, the person or designee organizing the
9 ceremony contacts the appropriate local Federal fisheries
10 manager, so your concern about the local land manager,
11 we're talking about the government entity. But prior to
12 that, the person organizing the ceremony, which would be
13 one of the tribal entities and if we -- or the Native
14 organizations.

15

16 CHAIRMAN LOHSE: Bob.

17

18 MR. CHURCHILL: If I'm understanding
19 correctly, you want to make sure that the tribal
20 organization plays a role in this process of requesting
21 an approval, am I understanding that correctly?

22

23 MR. G. SAM: Yes.

24

25 MR. CHURCHILL: And so I think what we've
26 talked about is that if I had a funeral potlatch, I would
27 go to my tribal representative, for example, which would
28 be Ralph, who then would go to the land manager involved
29 and that's what I'm envisioning and then that approval
30 would come back down. And I think that answers your
31 concern. Am I understanding that correctly?

32

33 CHAIRMAN LOHSE: I think you're
34 understanding it correctly, Bob. The only difference
35 would be that I couldn't be your tribal manager that you
36 could go to.

37

38 (Laughter)

39

40 CHAIRMAN LOHSE: But, yeah, that's what
41 it would be, is what I envision is that you'd end up
42 going to your community tribal manager or whatever
43 organization that, you know, that deals with that in your
44 area and each area is a little bit different and then
45 they would go to the local land manager to obtain it.
46 But now, you know, on a funerary one you don't want to
47 put any more steps involved than you have to, you know, I
48 mean the idea is to simplify it, not make it harder.

49

50 Yeah, but you can't go to the tribe to

00089

1 get permission to do it on Federally-managed land. You
2 still have got to include the Federal land manager of the
3 unit that you're going to go to do this in. You can get
4 the approval of the tribe, the recommendation of it, but
5 the Federal land manager still has to give the okay
6 because he's the one managing it there.

7

8 MR. G. SAM: Just as an example, in
9 Huslia, when there's a funeral, the village chief calls
10 up the Refuge manager in Galena.....

11

12 CHAIRMAN LOHSE: Right.

13

14 MR. G. SAM:and tells him, we're
15 going out and we're going to harvest a moose today
16 and.....

17

18 CHAIRMAN LOHSE: And that's exactly what
19 it says here.

20

21 MR. G. SAM:he says, yes, and okay
22 fine, then give the location where you're going but, no
23 -- and they don't even put it that way because in our
24 culture we can't just say -- we're taking for granted
25 that we are going to be successful, they just tell them
26 that we are going out to look for a moose, you know.

27

28 CHAIRMAN LOHSE: Yeah.

29

30 MR. G. SAM: And all the U.S. Fish and
31 Wildlife requires is, you know, that after it's been
32 harvested, they report where and what kind and did it
33 taste good.

34

35 CHAIRMAN LOHSE: Yeah.

36

37 MR. G. SAM: No, that's a joke.

38

39 (Laughter)

40

41 MR. G. SAM: I couldn't help -- you can't
42 get too serious about all this so.....

43

44 (Laughter)

45

46 CHAIRMAN LOHSE: Yeah. Well, that's what
47 we envision is just exactly that, Gabe.

48

49 MR. G. SAM: Yeah.

50

00090

1 MR. CHURCHILL: So with that
2 clarification are we, in fact, ready to vote on the
3 amendment to Proposal 27?

4
5 CHAIRMAN LOHSE: If there's no further
6 discussion.

7
8 MR. CHURCHILL: I'll call the question.

9
10 CHAIRMAN LOHSE: Question's been called
11 on the modification or amendment to Proposal 27. All in
12 favor signify by saying aye.

13
14 IN UNISON: Aye.

15
16 CHAIRMAN LOHSE: All opposed signify by
17 saying nay.

18
19 (No opposing votes)

20
21 CHAIRMAN LOHSE: Motion carries. We now
22 have an amended 27 in front of us. Do we have any
23 further discussion or are we ready to vote on the motion
24 as amended.

25
26 MR. CHURCHILL: Call the question.

27
28 CHAIRMAN LOHSE: Question's been called
29 on the motion as amended, Proposal 27. I don't think we
30 have to read it in again. We have read in as we've
31 amended it so with no further discussion the question's
32 been called. All in favor signify by saying aye.

33
34 IN UNISON: Aye.

35
36 CHAIRMAN LOHSE: All opposed signify by
37 saying nay.

38
39 (No opposing votes)

40
41 CHAIRMAN LOHSE: We're going on, motion
42 carries.

43
44 At this point in time we're going on to
45 Proposal 8a and 9a, 28, we move to the end of the list,
46 so 8a and 9a. You'll find that on Page 77. And I think
47 Pat, you're going to introduce this one.

48
49 MS. PETRIVELLI: Hello, this is Pat
50 Petrivelli again, anthropologist. The actual analysis

00091

1 starts on Page 89 and the pages before are just copies of
2 the proposals and various maps.

3

4 This proposal was combined, three
5 proposals this year were combined in the analysis -- or
6 three proposals were combined in this analysis. Proposal
7 8 was submitted by Machel Haynes and it asks for a
8 customary and traditional of shellfish for the residents
9 of Chisik Island and Tuxedni Bay only.

10

11 Proposal 9 was submitted by Henry Kroll,
12 a resident of Tuxedni Bay and he requested a positive
13 customary and traditional use determination for crab and
14 razor clams in Tuxedni Bay for the residents of Tuxedni
15 Bay only.

16

17 Proposal 10 was submitted by Ninilchik
18 Traditional Council, Stephen Vanek and Fred H. Bahr, and
19 their proposal dealt with all fish and all shellfish in
20 the Cook Inlet area. And as you've know we've reviewed
21 analysis for the fish requests in the last two years and
22 those have been deferred pending a study of uses in the
23 Cook Inlet area and those have just begun in April and
24 I'll be reporting on that later but it's dealing with
25 fish use only, fin fish use, salmon and other freshwater
26 fish. And we deferred consideration of shellfish until
27 this year.

28

29 That deferral was based upon a number of
30 factors and part of it had to do with the review of the
31 Kenai rural determinations.

32

33 But needless to say, two years later
34 we're dealing with shellfish use. And the request, in
35 the species requested -- or the original proposal
36 requested use by residents of the Kenai Peninsula
37 district and that doesn't exist anywhere except for in
38 commercial fishing regs which we don't have in our regs.
39 Well, actually I don't think there is a commercial -- or
40 a Kenai Peninsula fishing district, but what I did was
41 look at the boundaries of the Kenai Peninsula borough and
42 I used that because in the various -- the three
43 proponents, Stephen Vanek and Fred H. Bahr, it was
44 communities that surrounded Cook Inlet and that
45 essentially encompasses the residents of the Kenai
46 Peninsula borough.

47

48 And then in looking at the use of
49 shellfish in the Cook Inlet area, Map 2 on Page 86 shows
50 the only jurisdiction that the Federal program has in the

00092

1 Cook Inlet area marine waters which is where shellfish
2 occurs and those areas are around -- is portions around
3 Chisik Island, that's part of the Alaska Maritime Refuge
4 and then a line, that's right next to it, with that --
5 that line by the words Tuxedni Bay and that's
6 jurisdiction by the Lake Clark National Park Service
7 where their boundaries go across the bay. So their
8 jurisdiction is the whole waters of the bay and then the
9 Alaska Maritime Wildlife Refuge are the waters around
10 Chisik Island.

11

12 So those are the areas where the Federal
13 program has jurisdiction in the Cook Inlet area.

14

15 And then looking at the use by various
16 communities in considering -- because these proposals
17 essentially -- currently there are no customary and
18 traditional use determinations for shellfish in the Cook
19 Inlet area. So that means all rural residents are
20 eligible. And the three proposals would restrict
21 shellfish use in one way or another, either to the
22 residents of the Kenai Peninsula borough or to Chisik
23 Island in Tuxedni Bay only so when a restrictive
24 determination is being made -- it's a policy to look at
25 the possible use by other residents. So before
26 undertaking, we looked at possible other users and to the
27 north, south and east essentially the only potential
28 users that showed evidence of use of the area were the
29 residents of the Kenai Peninsula borough in checking the
30 data we had from various Fish and Game studies and in
31 resource use maps. The residents that had shown any use
32 were residents of the Kenai Peninsula borough, so that's
33 the analysis -- it was restricted to looking at those
34 uses only. So we didn't look to the residents of Lake
35 Clark or any of the communities north of Tyonek such as
36 Trapper Creek and -- well, and -- and I forget who would
37 be north -- or Talkeetna, or any of those users or
38 Whittier to the east.

39

40 So -- and then in the Kenai Peninsula
41 borough, Page 87 shows the rural areas and actually the
42 telling thing is it shows the non-rural areas -- or the
43 hatched ones and so the remaining areas are the rural
44 areas but they're also listed on Page 93.

45

46 And in that list, there's 19 different
47 communities and areas and of those -- and that was just
48 the various ways of getting population data. Of those
49 19, four are census designated places rather than actual
50 communities and then one of them is just a designation

00093

1 used in the study, the Northfork Road area, so some are
2 actual communities but then others are -- like for
3 Seldovia, this census designates two areas, Seldovia and
4 Seldovia village. But data to get at populations was
5 broken down into those 19 areas. And for the rural
6 residents of the Kenai Peninsula borough, it shows -- my
7 table has 500 -- or 5,567 people but there's
8 approximately two to 300 people that are also rural
9 residents of the borough that live outside of these
10 delineated areas, such as the residents of Chisik Island
11 and Tuxedni Bay who don't fall into one of these groups.
12 But there are rural residents in the borough that aren't
13 in any of these and that's approximately two to 300
14 people.

15
16 So those are the areas. And none of
17 these communities or areas are -- well, actually let me
18 go back a little bit. So this is a mixture of the rural
19 areas -- or these are all the rural areas in the Kenai
20 Peninsula borough and then for the -- where we have Fish
21 and Game data that shows subsistence use, household
22 studies surveys have been done in Tyonek, Cooper Landing,
23 Hope, Port Graham, Nanwalek, Ninilchik and Seldovia and
24 then we commissioned a study of the Homer rural area and
25 that was done in '98 and '99 and that's where we got data
26 on more recent information on Ninilchik and then the
27 Northfork Road area and then a portion of Fritz Creek
28 east and Vosnasenka and it was scheduled to get data on
29 Rezdola and Katchmakselo but those communities, the
30 studies weren't -- we weren't able to undertake surveys
31 even though -- so they weren't included, but those five
32 areas we do have data for them.

33
34 And Page 94 shows their use of shellfish.
35 And per capita, use of shellfish, it ranged anywhere from
36 34 pounds a year per person down to 2.3 pounds a year per
37 person. And of course, Seldovia has one of the highest
38 uses and part of what this table shows is the communities
39 closest to shellfish resources have the largest use or
40 that are readily available.

41
42 But -- so in looking -- using that data
43 and looking at the eight factors of shellfish use, there
44 were two use patterns that appeared amongst these
45 communities and one is where the shellfish resources are
46 locally available. People -- or the use of shellfish
47 occurred year-round and were dependent upon seasonal
48 availability and tides, just at low tides people use the
49 shellfish and weather patterns.

50

00094

1 And then this second pattern is where
2 people had to travel to use the resource and one -- one
3 of this -- one way this pattern was described was for the
4 community of Tyonek where they had to -- where they
5 travel and -- actually it was mapped and Page 88 shows
6 their use of shellfish but they're higher up in the Inlet
7 where shellfish do not occur but they're shellfish use
8 started at Little Jack Slough and went to the north shore
9 of Tuxedni Bay, so -- but the way they use the resource
10 is they would organize clamming parties and two to three
11 families would travel together, the hundred or so miles
12 farther down and then they would go to harvest clams and
13 also carry out hunting activities at the same time.

14
15 Other people of -- Tyonek did this on a
16 yearly basis and this use pattern has been documented by
17 other people on the Kenai Peninsula and partially because
18 that area includes the Polly Creek clam beds and they're
19 known for their distinctively large size razor clams, at
20 least, they were years ago and commercial activities
21 occurred there. And I'm not quite sure if they are still
22 known for larger size but they're certainly known to be
23 less utilized -- less heavily utilized by recreational
24 users such as the beds at Clam Gulch so people still want
25 to go to Polly Creek to get razor clams, if not for
26 larger sizes, but just to get away from the heavily used
27 Clam Gulch beaches.

28
29 So -- but it had been documented that
30 people traveled there from Ninilchik, Seldovia, Hope and
31 Cooper Landing.

32
33 And the other thing that was distinctive
34 about those communities, well, Ninilchik, Hope and Cooper
35 Landing, it's those communities existed before the road
36 was built on the Kenai Peninsula and they had a history
37 of using the west side of Cook Inlet. The other
38 communities that were in the study, a lot of them came up
39 after the road was built to the ones such as -- the ones
40 near Northfork Road and Boznesenka, they were like all
41 the Russ -- the old believer communities were settled
42 after 1967 so their use patterns generally follow road-
43 connected patterns and the recent study showed that they
44 use the Clam Gulch area for clams.

45
46 All the data relating to the residents of
47 Chisik Island and Tuxedni Bay were provided by the
48 proponents themselves and they're described in each of
49 the factors that they occurred. And they're pretty basic
50 about how people used clams, well -- or harvesting clams

00095

1 with buckets and shovels and then with crab pots the only
2 description -- well -- well, were just crab pots for
3 crabs. And then for using, the only areas -- or the only
4 documented users for crab in that area were the
5 information provided by residents of Chisik Island and
6 Tuxedni Bay themselves and I wasn't able to find data of
7 use by any other users which following those two
8 patterns, when parties -- when they had the multiple
9 activities, subsistence it makes sense to go hunting and
10 have boats and maybe buckets and shovels but to carry
11 around crab pots isn't a usual multiple use activity. So
12 it makes sense to have the local users being engaged in
13 that kind of activity.

14

15 And there's a number of tables with just
16 the percentage of use on Page 100 and then the average
17 number of resources used, this showing various
18 characteristics. But I'll just get right to the
19 conclusion of the C&T determination.

20

21 And the conclusion was to support the
22 proposal with a modification and it's on Page 103 and it
23 was to make a positive customary and traditional use
24 determination for clams for the residents of Tuxedni Bay,
25 Chisik Island, Tyonek, Cooper Landing, Hope, Ninilchik
26 and Seldovia and positive determination for crab for
27 residents of Tuxedni Bay and Chisik Island. And that's
28 because those were the communities that showed use of
29 those resources in the area where we have jurisdiction.
30 Even though other communities in the study showed use of
31 shellfish it didn't show -- they didn't show use in the
32 Federal waters so those were the only areas where I found
33 data that showed use of those resources.

34

35 So if you have any questions.

36

37 CHAIRMAN LOHSE: So basically what you're
38 -- does somebody else have something to comment? Bob.

39

40 MR. CHURCHILL: Yeah, Pat, thank you.
41 Just rough ball park, how many people actually live
42 around the bay or on the island?

43

44 MS. PETRIVELLI: Oh, Tuxedni Bay and
45 Chisik Island?

46

47 MR. CHURCHILL: Yeah.

48

49 MS. PETRIVELLI: I think it's three

50 families.

00096

1 MR. CHURCHILL: Total?

2

3 MS. PETRIVELLI: Yes. It would be the
4 Kroll family, the Haynes -- but that live year-round, I
5 think that would be it.

6

7 MR. CHURCHILL: Okay. If I could do a
8 follow-up or two?

9

10 CHAIRMAN LOHSE: Yes, you may.

11

12 MR. CHURCHILL: The other thing I, if I'm
13 understanding the information correctly, the communities
14 other than these two, it appeared that the take of
15 shellfish was incidental to hunting; am I understanding
16 that correctly?

17

18 MS. PETRIVELLI: For clams?

19

20 MR. CHURCHILL: Clams and crab.

21

22 MS. PETRIVELLI: Well, there was -- that
23 pattern for clams in the Polly Creek area, where they
24 would go over there and do clamming and hunt moose or
25 hunt marine mammal in the bay -- in the inlet there. But
26 crabs, I think people set out pots in other areas of the
27 inlet but we don't have jurisdiction for those
28 activities. The only jurisdiction we have are at Chisik
29 Island and at Tuxedni Bay but there's no history -- I
30 could find no evidence of use where other people traveled
31 to Tuxedni Bay or Chisik Island to set crab pots.

32

33 MR. CHURCHILL: Yeah, I guess what I'm
34 looking at is everything I read and just personal
35 knowledge, if I were living in Cooper Landing, if I was
36 involved in subsistence and concerned with the economies
37 of scale, there's far more places to get crab and clams
38 without ever crossing the Inlet, and it just would seem
39 to me that it wouldn't satisfy a number of the key
40 elements of a subsistence finding. And the literature
41 I've been able to read both here and independent seems to
42 be that if they were hunting moose or, you know, large
43 animals, marine mammals then incidental to that, they may
44 do clamming or crabbing. I just don't see any other
45 thing that would lead me to believe it would be
46 different.

47

48 MS. PETRIVELLI: The use of clams by
49 those communities would be an incidental use. Well, just
50 even the pounds per use, well, for those communities for

00097

1 Hope and Cooper Landing, well, Hope has four pounds per
2 capita but it is definitely an incidental use of the
3 resource.

4

5 MR. CHURCHILL: And in that use, did we
6 differentiate use between shellfish taken from that
7 particular source or just total use of shellfish?

8

9 MS. PETRIVELLI: The only data I had was
10 -- well, for those pounds, I think that's just shellfish
11 and.....

12

13 MR. CHURCHILL: No, I'm sorry, Pat. What
14 I'm saying is, if the survey, if you ask me, how many
15 pounds roughly of shellfish I ate, would the question be
16 strictly related to the shellfish that I took from this
17 area that we're concerned with or just total?

18

19 MS. PETRIVELLI: Well, I had -- there is
20 data about what kind of clams, whether they were razor
21 and then.....

22

23 MR. CHURCHILL: What I guess what I am
24 asking is, you know, when I hunt and fish I take from a
25 variety of locations.

26

27 MS. PETRIVELLI: Uh-huh.

28

29 MR. CHURCHILL: And I guess when I'm
30 looking at these amount of pounds of shellfish used in
31 these communities, I'm wondering, are we saying that
32 that's the amount of shellfish taken.....

33

34 MS. PETRIVELLI: Throughout the past.....

35

36 MR. CHURCHILL:from this one
37 source?

38

39 MS. PETRIVELLI: It's just how many clams
40 did you eat.

41

42 MR. CHURCHILL: So from all sources?

43

44 MS. PETRIVELLI: Yeah.

45

46 MR. CHURCHILL: Oh, okay.

47

48 MS. PETRIVELLI: Yeah, so we don't know
49 where they harvest them.

50

00098

1 The 1998 study looked at harvest areas
2 for the past 10 years and that did show harvesting in
3 closer areas but.....

4
5 MR. CHURCHILL: I would think so rather
6 than crossing the water. And on Page 92, you refer to
7 some surveys of a particular year, I think '98 and are
8 there previous year surveys that we could get that might
9 point out to a pattern, I think it says in 1998 ADF&G
10 conducted household surveys of areas unofficially
11 referred to as the Ninilchik rural use and Homer -- were
12 there earlier surveys?

13
14 MS. PETRIVELLI: That 1998 study was of
15 those communities that lived in those five areas.

16
17 MR. CHURCHILL: But were there earlier or
18 was it just one isolated.....

19
20 MS. PETRIVELLI: Of those communities?

21
22 MR. CHURCHILL: Just a snapshot.

23
24 MS. PETRIVELLI: The earlier surveys were
25 of Ninilchik and so -- but they didn't ask where they
26 harvested.....

27
28 MR. CHURCHILL: Sure.

29
30 MS. PETRIVELLI:they just asked how
31 much.

32
33 MR. CHURCHILL: Yeah, okay.

34
35 MS. PETRIVELLI: But there were resource
36 maps that show for Hope and Cooper Landing, I wish I
37 could have included data but for some reason when we do
38 it electronically we can see the little dots on the
39 screen and then we just imagine where the inlet is and --
40 but I couldn't get the map makers to put the inlet and
41 the little dots together but the little dots look like
42 they were by Polly Creek.

43
44 MR. CHURCHILL: And on your C&T finding
45 under three it says, a pattern of use and it talks about
46 tools, did you come up with -- and this is just idle
47 curiosity, tools and techniques that were used prior to
48 pots to harvest crabs?

49
50 MS. PETRIVELLI: No, I -- there was --

00099

1 there's not a lot of information about -- you're talking
2 about like hundreds of years ago or.....

3

4 MR. CHURCHILL: Well, whatever they used
5 prior to using pots.

6

7 MS. PETRIVELLI: Okay.

8

9 MR. CHURCHILL: Did we ever come up.....

10

11 MS. PETRIVELLI: Spearing. I don't -- I
12 -- not in the ADF&G studies.

13

14 MR. CHURCHILL: So we had no oral history
15 of that?

16

17 MS. PETRIVELLI: Oh, besides -- when they
18 come close to the shore.

19

20 MR. CHURCHILL: Okay, thank you.

21

22 CHAIRMAN LOHSE: Bob, on other ways of
23 doing it, from talking to some of the older Cordovans,
24 they used to actually get them with dipnets right along
25 the shore.

26

27 MR. CHURCHILL: And I'm familiar with
28 some of those, particularly my most -- most of my
29 experience is up around Shish and a little farther north,
30 they don't want to get very cold so they've got some
31 pretty clever techniques. I was just curious if we had
32 any documentation.

33

34 CHAIRMAN LOHSE: Susan.

35

36 MS. WELLS: I just had some -- did I hear
37 you saying that the Cooper Landing and Hope residents
38 were connected to the Polly Creek area, for sure?

39

40 MS. PETRIVELLI: Well, it was just
41 connected through the resource use maps that were done in
42 1990. But unfortunately I couldn't get them to print out
43 but it just showed that that was one of their harvest use
44 areas. Now, whether they used it in -- it would have
45 been the 10 years before -- from 1980 to 1990 and I
46 couldn't get the maps to print out but -- and it wasn't
47 discussed, of course, because it's just a supplemental
48 use and, of course, it has -- well, four pounds per cabin
49 and 2.3 so we have the minimal data but it didn't even
50 describe it as a significant portion but just as a

00100

1 supplemental use.

2

3 MS. WELLS: I guess I just question the
4 C&T for those areas and where Cooper Landing and Hope to
5 have a customary and traditional use of Tuxedni Bay and
6 Polly Creek. I don't -- I didn't know if that data was
7 positive. Because it seems to me that they would be more
8 likely to use the Calm Gulch Ninilchik beaches because of
9 access.

10

11 CHAIRMAN LOHSE: Thank you, Susan. Fred.

12

13 MR. ELVSAAS: Yeah, a couple
14 observations. I've utilized Tuxedni Bay and Polly Creek
15 a fair amount. And when you go over there you target
16 clams as well as hunting. That's the idea of going over
17 there is the resources are there. One reason the people
18 from Seldovia went to the west side, especially Polly
19 Creek for clams is because in Seldovia we have butter
20 clams, we don't have razor clams. So you go there to get
21 the clams.

22

23 And the area in Tuxedni Bay itself, is
24 mud. The Polly Creek area is sand, sand beaches and
25 south of Chisik Island is sand beaches with clams. So
26 there's actually no clamming within the bay. Now, in the
27 area of just south of Chisik Island between Chisik Island
28 and the mainland and the channel there is deep water and
29 I've fished crab commercially there and in fishing there
30 we put shrimp pots in a couple of the crab pots which is
31 a way of shrimping in areas like that. And we did it for
32 our own use. We did get some shrimp but not many so
33 there are shrimp in that deep water right there. The
34 rest of it is mud flats and so forth.

35

36 But I'm a little disturbed about limiting
37 the crab to just those people over there. Mr. Kroll
38 lives in Seldovia, mostly he has a home there and so
39 forth and he also -- his father had property over there
40 and they're buried over there, his parents are. But in
41 the area of Crescent River, that whole area in there is
42 owned by several Native corporations and right today, as
43 we speak, we have a logging operation going on over
44 there. Seldovia and Ninilchik corporations have joint
45 ventured in a logging operation. Now, we've got people
46 living in the logging camp that probably qualify as rural
47 now because they're living there and logging and they'll
48 be there as long as anybody. They'll work until the snow
49 drives them out.

50

00101

1 So I just wonder now, do they qualify for
2 these since most of these people that are working there
3 right now are from the Peninsula, these Ninilchik, Homer
4 areas and it raises several questions when I see a
5 resource limited to just a few people. I can't agree
6 with crab being limited to just the people there because
7 they happen to be there now. Crab have been taken for
8 years and years and years throughout Alaska wherever you
9 can find them. And I know from my experiences, that
10 there's not a lot of crab in the area anyway, but there
11 are some.

12
13 MS. PETRIVELLI: With the idea of the
14 residents, when there's seasonal occupation of an area,
15 the way we define an eligible resident is those who
16 consider their home to be -- so if they live in Ninilchik
17 and work over there but if their primary place of
18 residence is Ninilchik then that's where they would be --
19 that's where their -- where their customary and
20 traditional use determination would be as rural residents
21 of Ninilchik or wherever the person's primary place of
22 residence is. There are some people who live in
23 Anchorage and have seasonal homes in Tuxedni Bay but they
24 would not be considered eligible rural residents because
25 their primary place of residence is in Anchorage. So
26 they wouldn't be eligible rural residents because their
27 primary place of residence is someplace else.

28
29 As far as the crab issue goes, the
30 abundance of crab is covered more in the B portion and --
31 but your assessment of it, there's not very many crab,
32 that's what we thought and that's why we figured there
33 wasn't a lot of data showing, you know, people have not
34 tracked how much people use that area to harvest so I
35 couldn't find any information, any harvest data except
36 for the fact that the regulations have been increasingly
37 restrictive as the populations have declined.

38
39 CHAIRMAN LOHSE: Okay. Fred.

40
41 MR. ELVSAAS: One other thing, just a
42 question. Now, the Lake Clark Park goes on down into
43 Chitina Bay, the boundary there, are we talking about
44 this whole area or just Tuxedni Bay?

45
46 MS. PETRIVELLI: For marine waters it
47 would just be Tuxedni Bay.

48
49 MR. ELVSAAS: Okay.
50

00102

1 MS. PETRIVELLI: Because that's where the
2 boundary goes across the bay.

3

4 MR. ELVSAAS: Okay.

5

6 MS. PETRIVELLI: In other portions it
7 goes around the bay. So it's the Park Service's feeling
8 that their jurisdiction includes the marine waters within
9 their boundaries. But in Chitina Bay it's around the
10 bay.

11

12 MR. ELVSAAS: Yeah, thank you.

13

14 CHAIRMAN LOHSE: Bob.

15

16 MR. CHURCHILL: Yeah, Pat, I'm looking at
17 Page 99, it says for subsistence areas, Tyonek, Port
18 Graham, Nanwalek and Seldovia, ADF&G documented the
19 knowledge taught by elders of specialized methods of
20 catching, preparing and processing shellfish. Can you be
21 more specific? Can you tell me what those specialized
22 methods would be?

23

24 MS. PETRIVELLI: Let's see, right now,
25 no.

26

27 MR. CHURCHILL: Okay.

28

29 MS. PETRIVELLI: I could tell you the
30 technical report I used and I read the sections because
31 they did have specific chapters.

32

33 MR. ELVSAAS: What page are you on?

34

35 MR. CHURCHILL: 99.

36

37 MS. PETRIVELLI: Yeah, so let's see,
38 actually that was from a C&T worksheet that they did.
39 But the technical reports, one was written by Ron Stanik
40 in 1985 and he had a whole chapter on the use of
41 shellfish and as part of the seasonal round. And I think
42 it's just the idea of -- okay, specialized methods. I'm
43 trying to remember what they were.

44

45 MR. CHURCHILL: Well, while you're
46 thinking, I guess the other thing, how long have these
47 people lived over in on this island, is it....

48

49 MS. PETRIVELLI: Chisik Island?

50

00103

1 MR. CHURCHILL:an old community or
2 is it one generation, two generation community?

3

4 MS. PETRIVELLI: I can answer that one
5 easier. For Tuxedni Bay and Chisik Island?

6

7 MR. CHURCHILL: Yeah.

8

9 MS. PETRIVELLI: Well, that area has been
10 -- was occupied before by an Athabaskan village. And
11 then I think the people left there at the end of the last
12 century and then since then it's been occupied, the
13 activities that had the -- related to the occupancy of
14 that area were related to the clamming operations and
15 then there was a cannery on Chisik Island, a small
16 cannery operation. So -- and that was more like the 19
17 -- turn of the century to the 1930s, I think. And -- so
18 I -- and there's a number of setnet sites in that area.
19 And I tried to find data related to that from the State
20 but people only lease set net sites when there's
21 competition and so there wasn't a lot of -- there was
22 only one or two set net sites leased, you know, with a
23 lease in there that has been consistently been leased,
24 you know, up until the '80s. But with the price of
25 salmon so low that there's not a lot of competition now
26 for set net sites.

27

28 MR. CHURCHILL: So I'm getting the sense
29 this isn't a continuous community. We had an Athabaskan
30 community for a long time who have since no longer lived
31 there and then we -- this is an extension of the folks
32 that came in for commercial purposes, am I understanding
33 that correctly?

34

35 MS. PETRIVELLI: For clamming -- related
36 to the clamming and then the fish processing activity.

37

38 MR. CHURCHILL: Okay.

39

40 MS. PETRIVELLI: There's been an active
41 set net commercial activities, well, the ones that are
42 present there and then there's been other commercial
43 fishing activities on the west side of Cook Inlet.

44

45 MR. CHURCHILL: Okay, thank you.

46

47 CHAIRMAN LOHSE: Pat, the fact that a
48 resource use takes place incidental to another resource
49 use. In the past we've talked about that as a common
50 practice in all subsistence because subsistence is

00104

1 opportunistic. I mean even if you didn't make a specific
2 trip for clams, if you took clams while marine mammal
3 hunting or while moose hunting or something like that,
4 that would be a typical subsistence practice because the
5 idea is, you know, just like taking a black bear. You
6 don't hunt for a black bear but if you take a black bear
7 while you're hunting for a moose, it's opportunistic.

8

9 So that part of it doesn't cause any
10 problems. Where I'm having problems is basically we've
11 got information that the people on the Kenai Peninsula
12 use clams and then I look at the map over here and I hear
13 that the upper end of Tuxedni Bay is all mud so there
14 aren't any clams up in that and the area that's Federal
15 water around Chisik Island never reaches the shore so
16 it's all deep water so there's basically no clams to
17 speak of in that. And then the amount of clams that are
18 taken by Cooper Landing and Hope and even some of the
19 other places is so small that I wonder what we're doing
20 here. I guess that's my main question.

21

22 Is this a request for C&T by the people
23 who live there because they're being pushed out by
24 competition and aren't able to meet their needs, are
25 there any clams there to start off with in the area that
26 -- or I mean are they going to Polly Creek and getting
27 their clams anyhow, do they realize how much Federal
28 water there actually is and that the Federal water
29 doesn't take in the clamming area?

30

31 MS. PETRIVELLI: Uh.....

32

33 CHAIRMAN LOHSE: I guess I'm just
34 wondering what we're doing this exercise for other than
35 the fact that somebody put a proposal on the table and so
36 far I haven't even been able to find out for sure that
37 there are any clams in the area that we're talking about
38 giving customary and traditional for for clams in the
39 Federal waters.

40

41 MS. PETRIVELLI: Uh.....

42

43 CHAIRMAN LOHSE: Fred.

44

45 MR. ELVSAAS: Yeah, there are some clams
46 around Chisik Island, not a lot. But the Polly Creek
47 area is a lot of sand beach, from Crescent River to Polly
48 Creek and there's a tremendous area there and it's very
49 abundant with clams. So there's a lot of clams -- as
50 compared to the east beaches of the Clam Gulch area on

00105

1 the Peninsula side, there's a lot more clams and they're
2 bigger clams.

3

4 So there's sufficient clam areas for all
5 of the areas but I question places like Hope and so
6 forth, too. I don't -- in my memory, I don't know of
7 anybody from -- in those areas that went over there to
8 dig clams.

9

10 CHAIRMAN LOHSE: But Fred, what I'm
11 getting at, let's take a look at the map on Page 86.
12 Now, I have no question about the clams from the Crescent
13 River to Polly Creek and I have no question that people
14 would travel to get those clams. But from what your
15 explanation was before, and again remember we're not
16 talking about the clams in the Polly Creek area, we're
17 not talking about the clams in the Crescent River area,
18 we're talking only about that cross-hatch waters that are
19 at the head of Tuxedni Bay and the cross-hatched waters
20 that are offshore from the mainland but are around Chisik
21 Island.

22

23 MS. PETRIVELLI: And -- and if you look
24 at the map on Page 88, where ADF&G mapped out the Tyonek
25 subsistence use areas, there is overlap between Federal
26 jurisdiction and Tuxedni.

27

28 CHAIRMAN LOHSE: Right. Right.

29

30 MS. PETRIVELLI: If you go from the mouth
31 of the Crescent River, which -- but just that one point,
32 there is a small overlap because I think that cross-hatch
33 is supposed to go -- well, to that first cape there and
34 then.....

35

36 CHAIRMAN LOHSE: But see, the Fish and
37 Game Tyonek's shellfish map goes along the beach on the
38 north side of Tuxedni Bay but stops prior to getting into
39 the part of the bay that is covered all the way across
40 with cross-hatching, so consequently it's not hitting the
41 waters around Chisik Island because those are deep waters
42 out there. It's following the shoreline. And the
43 Federal waters that we're looking at don't touch the
44 shoreline. I mean we actually have no authority, we
45 can't give a C&T on the shoreline waters in that area if
46 we wanted to because it's out of our authority.

47

48 So what we're dealing with is we're
49 dealing with the offshore waters in the area that has
50 Chisik Island and then we're dealing with the upper part

00106

1 of the bay which Fred said was mud and didn't have clams.

2

3 And so, you know, I guess that's -- I
4 guess where I'm having difficulty is I don't even know if
5 the people from Tuxedni Bay take clams in those areas
6 because it looks like it's pretty much out of reach and
7 why would they take clams there when they can just run
8 across to the shore and take clams where everybody knows
9 there's clams? I mean, you know?

10

11 MR. ELVSAAS: Uh-huh.

12

13 CHAIRMAN LOHSE: And so do we have -- I
14 mean do we have a problem that there's a limited clam
15 resource somewhere up here that we don't know about that
16 they're having problems with other people coming in and
17 pushing them out or would they, more than likely get
18 their clams right along the north shore there where
19 everybody else gets their clams?

20

21 I mean it's hard to give a C&T if you
22 don't even know that there's, you know, that the thing
23 that you're giving a C&T for exists there.

24

25 Now, the crab is a different story. We
26 know there's crab in the Chisik Island area.

27

28 Fred.

29

30 MR. ELVSAAS: Let me point out that the
31 Kroll family lives just to the left of the Crescent River
32 there in that small cove there where you see that -- the
33 little cove just.....

34

35 CHAIRMAN LOHSE: Uh-huh.

36

37 MR. ELVSAAS: There. And they basically
38 work along that beach.

39

40 CHAIRMAN LOHSE: Well, see, that's what
41 I'm getting at.

42

43 MR. ELVSAAS: Right.

44

45 CHAIRMAN LOHSE: I wonder if they realize
46 that that is not part of Tuxedni Bay Federal waters.

47

48 MR. ELVSAAS: Right. I see that now.

49

50 CHAIRMAN LOHSE: You know.

00107

1 MR. ELVSAAS: And the Haynes family lives
2 on the very north end of Chisik Island.

3
4 CHAIRMAN LOHSE: Okay. So they live on
5 Chisik Island?

6
7 MR. ELVSAAS: Right.

8
9 CHAIRMAN LOHSE: Okay.

10
11 MR. ELVSAAS: They're in the area.

12
13 CHAIRMAN LOHSE: So we have a family on
14 Chisik Island and a family in Crescent River.

15
16 MR. ELVSAAS: Right.

17
18 CHAIRMAN LOHSE: But we have no families
19 up here in the head of Tuxedni Bay, do we?

20
21 MR. ELVSAAS: No. No.

22
23 CHAIRMAN LOHSE: So there's nobody up
24 here?

25
26 MR. ELVSAAS: No. That's Park land.

27
28 CHAIRMAN LOHSE: Well, see that's what
29 I'm wondering, is if they think that Chisik Bay -- I
30 mean, you know, Tuxedni Bay goes across like this.
31 Because the area with clams and the area that shows
32 Tyonek is outside of the Federal waters for most
33 purposes, I guess, is what.....

34
35 MS. PETRIVELLI: I guess we could have
36 Xerox'd the original map but this map is really -- it's
37 not the -- the original map had more that -- that the use
38 areas went farther that would have overlapped.

39
40 CHAIRMAN LOHSE: The Tyonek areas?

41
42 MS. PETRIVELLI: Yeah. The ADF&G map.

43
44 CHAIRMAN LOHSE: Yeah.

45
46 MS. PETRIVELLI: Because we're working
47 from a copy of a map.

48
49 CHAIRMAN LOHSE: Yeah, I would expect
50 that if they're working in the Polly Creek/Crescent River

00108

1 area they probably would -- when a storm came up you'd
2 run into Tuxedni Bay, get out of the weather there and if
3 there's clams right there you would take clams right
4 there rather than be on the exposed beach.

5

6 Anyhow, that's enough from me. Fred.

7

8 MR. ELVSAAS: I can state that I know for
9 certain that my family and myself, through the years have
10 only dug in that area between Crescent River and Polly
11 Creek, we never dug up in the bay because there's just
12 nothing there. But we've hunted up there at the head of
13 the bay. That's a different situation. So we have not
14 had a use within the Federal areas defined on this map.

15

16 CHAIRMAN LOHSE: Pat, can I ask a
17 question?

18

19 MS. PETRIVELLI: Uh-huh.

20

21 CHAIRMAN LOHSE: You know, in discussion
22 before, as a Council, we haven't set that as a rule or
23 anything like that but when we were talking C&T, we
24 usually figured it was to the third generation, somewhere
25 in that neighborhood. And in this case, basically what
26 we have is two families, some of which are buried there,
27 looking for C&T in an area that we're not sure even has
28 -- we know it has the crab but we're not sure it has the
29 clams and they are the only residents of the area, right?

30

31 MS. WELLS: Year-round.

32

33 CHAIRMAN LOHSE: Year-round residents,
34 right.

35

36 MS. WELLS: The other thing, too, it's
37 mentioning little necks and butter clams and isn't that
38 the Polly Creek area is razors.

39

40 MR. ELVSAAS: Right.

41

42 CHAIRMAN LOHSE: Yeah.

43

44 MS. WELLS: Not little neck and butter.

45

46 CHAIRMAN LOHSE: But with....

47

48 MS. WELLS: Are there butters in Tuxedni?

49

50 MR. ELVSAAS: No.

00109

1 MS. WELLS: I don't -- not in the mud.

2

3 MR. ELVSAAS: Not that I know of.

4

5 MS. WELLS: Uh-huh.

6

7 CHAIRMAN LOHSE: No little necks?

8

9 MR. ELVSAAS: I've never heard of them
10 being there.

11

12 CHAIRMAN LOHSE: Okay.

13

14 MR. ELVSAAS: And see we dig the butter
15 clams on our side of the.....

16

17 MS. WELLS: Uh-huh.

18

19 CHAIRMAN LOHSE: On the rocky side,
20 gravel side?

21

22 MR. ELVSAAS: Yeah.

23

24 CHAIRMAN LOHSE: Yeah. Well, I think
25 what probably happens is people are confusing the razor
26 clam areas of Crescent River and Polly Creek and
27 everything with Tuxedni Bay.

28

29 Anyhow, I will leave it up to the rest of
30 the Council where to go from here because I have no
31 answers, no solutions to this one.

32

33 MS. WELLS: I don't like this. I'm just
34 wondering if there was any reason given for the request
35 of this by the Kroll or the Haynes families? I didn't see
36 any.

37

38 MS. PETRIVELLI: Well, I know Mr. Kroll
39 just wanted to be able to -- well, of course, Mr. Kroll
40 thought that he couldn't harvest -- actually there are no
41 subsistence regulations for these resources.

42

43 MS. WELLS: Uh-huh.

44

45 MS. PETRIVELLI: The only subsistence
46 season in State waters are -- and I forget where it is
47 but it's by.....

48

49 UNIDENTIFIED VOICE: Port Graham.

50

00110

1 MS. PETRIVELLI: Port Graham, that's the
2 only subsistence clam season and all the rest are
3 personal use. So I think it might have been the
4 recognition of subsistence use of the resources.

5
6 MS. WELLS: Um.

7
8 MS. PETRIVELLI: But then Machel Haynes
9 and the reasons she gave is she said, subsistence use
10 should not be limited to zero when commercial operations
11 have no bag limits. Of course she was talking about the
12 Polly Creek/Crescent River drainages. But she's wanting
13 it in the waters adjacent to Chisik Island and Duck
14 Island which are in Federal waters. So she thought if
15 people just over, when there's unlimited commercial
16 operations that there should be subsistence regulations
17 in the areas around Chisik Island. So that was her
18 reasoning and it's on Page 80. And of course, she asked
19 for regulations similar to commercial uses in the Polly
20 Creek/Crescent River drainage which is unlimited
21 commercial use, or there are no limits in those areas.

22
23 CHAIRMAN LOHSE: Yeah, see again if you
24 take a look at both of their proposals it says, you know,
25 where have they been taken, and they say where the
26 resource has been harvested, clams are dug on the
27 Crescent River bar. The Crescent River bar is outside of
28 Federal jurisdiction. And the other place over here, it
29 says, Polly Creek and Crescent River drainage, which.....

30
31 MS. PETRIVELLI: But that's Mr. Kroll
32 saying that.

33
34 CHAIRMAN LOHSE: Yeah.

35
36 MS. PETRIVELLI: But Machel Haynes said
37 adjacent to Chisik Island and Duck Island and those are
38 within the Federal waters around Chisik Island.

39
40 MR. ELVSAAS: Mr. Chairman.

41
42 CHAIRMAN LOHSE: Yes, Fred.

43
44 MR. ELVSAAS: I'm certain that the Haynes
45 family that lives on the north end of the island would
46 not run over to Crescent River bar just to dig clams when
47 I know there's some clams on the island right in front of
48 their house.

49
50 MS. PETRIVELLI: Yeah.

00111

1 CHAIRMAN LOHSE: Okay. So you have clams
2 at Chisik Island.

3
4 MR. ELVSAAS: There is clams.

5
6 CHAIRMAN LOHSE: Okay.

7
8 MR. ELVSAAS: But not as abundant as
9 Polly Creek.

10
11 CHAIRMAN LOHSE: Okay.

12
13 MR. ELVSAAS: Mr. Chairman.

14
15 CHAIRMAN LOHSE: Fred.

16
17 MR. ELVSAAS: The island is a rock island
18 with sandy beaches in small coves and places and that's
19 where the clams are. There's also rock out cropping, so
20 it's not a easy beach to dig on any of those beaches
21 along the island such as Polly Creek is pure sand, it's
22 real easy to dig.

23
24 CHAIRMAN LOHSE: But see, when I read
25 what she says here and I'm not sure whether I'm reading
26 it right, she says that I have visited and learned how
27 the commercial diggers, how to dig and where to dig and
28 how not to break clams and most buckets dug in a tide, it
29 does not surprise me the beds -- it does surprise me the
30 beds can withstand the use of season after season of
31 digging without impact or decline.

32
33 But those are the commercial beds on
34 Polly and Crescent. Those aren't the area that she's
35 asking for for a -- I would propose that if there's a
36 decline that the commercial harvest be modified. I don't
37 believe there's any commercial harvest at Chisik Island,
38 is there?

39
40 MR. ELVSAAS: Not now. A few years ago
41 there was.

42
43 CHAIRMAN LOHSE: Oh, there was, okay.

44
45 MR. ELVSAAS: There was, yes.

46
47 CHAIRMAN LOHSE: Okay. Well, in that
48 case then we're back to square one.

49
50 MR. ELVSAAS: Mr. Chairman.

00112

1 CHAIRMAN LOHSE: Yes, Fred.

2

3 MR. ELVSAAS: Historically through the
4 years, since the 1920s, there's been clam operations over
5 there.

6

7 CHAIRMAN LOHSE: Okay.

8

9 MR. ELVSAAS: The last commercial
10 operation was a suction dredge off a boat that harvested
11 for clams.

12

13 CHAIRMAN LOHSE: Proposals from other
14 members of the Council. Bob, did you have your hand up?

15

16 MR. CHURCHILL: I guess where I'm at at
17 this point is I'm not confident that this C&T finding is
18 a good one. I think we're about to take action at the
19 request of a couple folks that certainly longevity, at
20 least, one of the families is in question and as a result
21 could create a situation that we shut off harvest from
22 everybody but these two families in times of shortage.

23

24 I'm not inclined to move forward and
25 approve this. It doesn't appear there's any problem with
26 the resource at this point. People can harvest from a
27 variety of sources. I think this is just unnecessary.
28 And I'm concerned about the basis we would pass it on,
29 anyway. So unless we have more information that would
30 clarify it, I'm certainly not in favor of voting for
31 this.

32

33 CHAIRMAN LOHSE: Thank you. Susan.
34 Fred.

35

36 MS. PETRIVELLI: I was just wondering if
37 you wanted to hear all the other comments?

38

39 CHAIRMAN LOHSE: Okay.

40

41 MS. PETRIVELLI: Because you've just
42 heard -- went through the analysis.

43

44 CHAIRMAN LOHSE: Yeah. We haven't --
45 we're not ready to vote we're just talking.

46

47 MS. PETRIVELLI: So I can leave the
48 table, right?

49

50 CHAIRMAN LOHSE: Yeah. We're just

00113

1 talking about what we've got in here at this point in
2 time.

3

4 MR. ELVSAAS: That was going to be my
5 comment, I didn't think it was on the table yet.

6

7 CHAIRMAN LOHSE: No. No. No, it's not.
8 Okay. Alaska Department of Fish and Game. We did too
9 much discussion on it already. My good conscious over
10 there did not waive her hand loud enough and pound on the
11 table and say, Ralph, get back to the procedures.

12

13 MR. ELVSAAS: I'm glad you brought the
14 point up.

15

16 MR. CHURCHILL: We've done a lot of prep
17 work, though.

18

19 CHAIRMAN LOHSE: Yeah. Okay, Alaska
20 Department of Fish and Game.

21

22 MR. TAUBE: Mr. Chairman, the Department
23 has deferred its comments until review of the Staff
24 analysis and so there's no further comments from the
25 Department.

26

27 CHAIRMAN LOHSE: Thank you.

28

29 MR. CHURCHILL: Unless we go on and on.

30

31 CHAIRMAN LOHSE: Would you quickly review
32 them and then make some comments on them.

33

34 (Laughter)

35

36 MR. ELVSAAS: Oh, boy.

37

38 MR. CHURCHILL: Very good.

39

40 CHAIRMAN LOHSE: Okay. Other Federal,
41 State or tribal agency comments. Do we have any comments
42 from anybody on this proposal right here? Let me see if
43 I have -- yeah, I think I do have but that's when we get
44 to the -- okay, public comments. James, do you have
45 something to say on this one? Mr. Showalter.

46

47 MR. SHOWALTER: That was on that clams
48 and crab?

49

50 CHAIRMAN LOHSE: On the clams and crabs

00114

1 in Tuxedni Bay, was that included in your Cook Inlet
2 subsistence fisheries or was that not?

3

4 MR. SHOWALTER: No. But I could probably
5 shed some light.

6

7 CHAIRMAN LOHSE: Could you please. We
8 need light at this point in time.

9

10 MR. ELVSAAS: He sees the area quite a
11 lot.

12

13 CHAIRMAN LOHSE: Even if it was only a
14 candle it would give us.....

15

16 MR. CHURCHILL: More light than we have
17 now.

18

19 CHAIRMAN LOHSE: Right.

20

21 (Laughter)

22

23 MR. SHOWALTER: Okay. My name's James
24 Showalter from Kenai, Kenaitze Tribe. Okay, back to
25 Chisik Island area, within those Federal waters, yes, on
26 a low tide on the north end of Chisik, the tide comes --
27 the head tide goes at least two-thirds of the way across
28 there, a good minus tide. And there is clams, just a
29 little bit, looking at this map, west of Crescent River,
30 about halfway between there and that slough Fred was
31 talking about. That's basically where the clams would
32 start.

33

34 Then on Duck Island, is on the east side
35 of Chisik Island, there's an island there and there's a
36 low tide, there's a sand spit that goes out to the
37 island. There's abundance of crab -- or shellfish there
38 which is your razor clams.

39

40 CHAIRMAN LOHSE: Okay. So we have razor
41 clams in a fairly good number around Chisik Island?

42

43 MR. SHOWALTER: Yes.

44

45 CHAIRMAN LOHSE: Okay. Any questions for
46 Mr. Showalter? Thank you. Okay, do we have any written
47 comments on this one, Ann?

48

49 MS. WILKINSON: Mr. Chairman, no, we did
50 not get any written public comment.

00115

1 CHAIRMAN LOHSE: Okay. With that,
2 Regional Council deliberations, recommendations,
3 justification. Before we can do that we have to have a
4 motion to put this on the table. So this would be
5 Proposal 8a, 9a, 10a or just 8a or 9a or just 10a or no
6 motion at all. But before we can discuss it we need a
7 motion on the table.

8

9 MR. ELVSAAS: Mr. Chairman.

10

11 CHAIRMAN LOHSE: Yes.

12

13 MR. ELVSAAS: I believe we've explored
14 this as much as we possibly could. And I would feel
15 uncomfortable with making a motion at this time. There
16 apparently are areas within this Federal waters but I
17 would really like to see the proposers make better
18 justification at this point.

19

20 MR. CHURCHILL: I second that.

21

22 MR. ELVSAAS: No, I'm not making a
23 motion.

24

25 MR. CHURCHILL: No, I know it.

26

27 (Laughter)

28

29 CHAIRMAN LOHSE: I'll have a question of
30 our coordinator. If we don't put this on the table is it
31 a deferred proposal, is it a -- what happens if we just,
32 if there's no motion to put any of this proposal on the
33 table? Does it just die?

34

35 MS. WILKINSON: Then it just dies and you
36 have no recommendation whatsoever for the Board.

37

38 CHAIRMAN LOHSE: We have no
39 recommendation, we leave it up to the Board?

40

41 MS. WILKINSON: Right.

42

43 MS. PETRIVELLI: Well, Bristol Bay
44 submitted a recommendation.

45

46 CHAIRMAN LOHSE: And Bristol Bay has a
47 recommendation on it? Well, I would like to hear --
48 would we like to hear the recommendation that the Bristol
49 Bay Council has made?

50

00116

1 MR. ELVSAAS: Yes.

2

3 CHAIRMAN LOHSE: Please.

4

5 MR. CHURCHILL: Pat do you have that?

6

7 MS. PETRIVELLI: Larry does.

8

9 CHAIRMAN LOHSE: Larry, go ahead.

10

11 MR. BUKLIS: Mr. Chairman, Larry Buklis,
12 fishery biologist, Office of Subsistence Management. I
13 just came here from the Bristol Bay Council meeting held
14 in Naknek through yesterday and my memory of the meeting
15 is that they supported the C&T and supported the B
16 portion, the harvest regulation portion.

17

18 CHAIRMAN LOHSE: Bob.

19

20 MR. CHURCHILL: I guess I'm caught at
21 this point between putting it on the table and sending it
22 back to the proposers with a recommendation for more
23 specific information and letting it die a natural death.
24 Given the fact that Bristol Bay and, I'd love to be privy
25 to the full discussion that allowed them to support a C&T
26 finding but it's not within our scope, is maybe the
27 prudent thing would be to put it on the table and send
28 the message both to the Board and to the proposer about
29 our concerns about the lack of information and other
30 concerns with this proposal.

31

32 CHAIRMAN LOHSE: Well, Larry, may I ask
33 you a question? Now, when you said that Bristol Bay
34 ended up supporting the A portion [sic], we have three A
35 portions right here. The one that's for Chisik
36 Island/Tuxedni Bay, the one that's for just Tuxedni Bay
37 and the one that's for the whole Kenai Peninsula
38 district. And so far, you know, I was just wondering
39 which of the ones, you know, which of the ones did they
40 support?

41

42 MR. BUKLIS: Mr. Chairman.

43

44 CHAIRMAN LOHSE: Because you can't
45 support all three of them.

46

47 MR. BUKLIS: Mr. Chairman, my
48 recollection is they supported the Staff analysis
49 recommendation on Page 103.

50

00117

1 CHAIRMAN LOHSE: Okay, thank you. Go
2 ahead, Fred.

3
4 MR. ELVSAAS: Mr. Chairman, I have mixed
5 feelings about this. I strongly feel we need to get some
6 subsistence programs in Cook Inlet area. This is a great
7 place to start. I know through the years people have
8 subsistence fished over there as well as hunted and so
9 forth. And, of course, looking at the boundaries, the
10 clam beaches are a little out of kilter but I think what
11 I would ask the Board here is if we shouldn't move to
12 address this thing and then table it so we could look at
13 it in the future without it being wiped out and off the
14 board entirely. And I don't know why -- what information
15 we're looking for, more justification and so forth but
16 there's very little Federal waters in Cook Inlet other
17 than the offshore waters. And I would not feel
18 comfortable just ignoring it but, yet, on the other hand,
19 looking at the major clam beaches that people
20 historically have used is not being within the area and
21 listening to James Showalter's testimony that there are
22 viable clam beaches within the Federal area, possibly
23 we'd be wiser to table it for future action.

24
25 CHAIRMAN LOHSE: Well, we can have a
26 motion to table it. We can just not put it on the table,
27 it will go before the Board without a recommendation from
28 this Council. It has the Bristol Bay Council
29 recommendation already. IF we make no motion it will
30 still go before the Board.

31
32 MR. ELVSAAS: Okay.

33
34 CHAIRMAN LOHSE: The Board will act with
35 or without or recommendation. Personally, I don't feel
36 -- this is my own personal feeling, I don't feel
37 comfortable making a recommendation on it at this point
38 in time with what we've got. I don't know if that's the
39 feeling of the rest of the Council or not.

40
41 MR. CHURCHILL: I agree with the Chair.
42 At the same time I don't want the Board to go without the
43 benefit of our concerns. I mean if they have one
44 recommendation that says, yeah, it's a swell idea and
45 they don't have the benefit -- and I don't know if you'd
46 be able to be there or what other input opportunities
47 we'd have, I'd hate to see it slip through based on the
48 fact that the Board didn't have the benefit of our
49 concerns and discussions including Fred's, who's very,
50 very familiar with this area.

00118

1 So I guess that's more of a question, do
2 they get our minutes in whole or would we be able to
3 express our concerns to the Board so they would be able
4 to consider it during their deliberation?

5
6 CHAIRMAN LOHSE: Susan.

7
8 MS. WELLS: Well, I was thinking about
9 the customary and traditional usage and I have some
10 concerns with some of the areas that are listed on there.
11 Residents of Tuxedni and Chisik. I know Tyonek would go
12 down there and I know Seldovia goes up the inlet on that
13 side, Ninilchik has the abundance on their side of the
14 inlet. I have concerns about Cooper Landing and Hope
15 establishing customary and traditional. So I don't think
16 I could support this at this time with this limited
17 amount of information.

18
19 CHAIRMAN LOHSE: Well, we can't support
20 it, we haven't even put it on the table yet.

21
22 MS. WELLS: Yeah.

23
24 MR. ELVSAAS: Yeah.

25
26 MS. WELLS: I couldn't support putting it
27 on the table.

28
29 CHAIRMAN LOHSE: Now, I have one other
30 question I'd like to ask, is this area in our
31 jurisdiction or is this a Bristol Bay jurisdiction area
32 that this is taking place in?

33
34 MS. WELLS: No, this is ours.

35
36 MR. ELVSAAS: It's ours.

37
38 MS. WELLS: It's ours.

39
40 CHAIRMAN LOHSE: It's ours, okay. It was
41 just a simple question, I was just wondering.

42
43 MS. PETRIVELLI: Marine areas are in the
44 Cook Inlet area but the residents and then the boundary,
45 I think, for some reason that is in the Bristol Bay area,
46 that Tuxedni Bay, Chisik Island, the residents are in the
47 Bristol Bay area. But then Ninilchik, Seldovia -- well,
48 all the residents of Kenai Peninsula and Tyonek are
49 within the Southcentral area.

50

00119

1 CHAIRMAN LOHSE: Right. But the area
2 that -- the area in question itself is in the Bristol Bay
3 area?

4

5 MS. PETRIVELLI: Jurisdiction.

6

7 CHAIRMAN LOHSE: Bristol Bay
8 jurisdiction.

9

10 MS. PETRIVELLI: Yeah. So the boundaries
11 for the Bristol Bay jurisdiction is -- well, north of
12 Polly Creek, so.....

13

14 CHAIRMAN LOHSE: Yeah. So in that case
15 if we don't make recommendations on it, the area that
16 it's in will -- we have a tendency not to override areas
17 that are actually in that area. So it would be within
18 our scope just to not put it on the table and do anything
19 with it.

20

21 MS. WELLS: The users are in our area.

22

23 CHAIRMAN LOHSE: The users are in our
24 area but the area is -- and see, let's see when we deal
25 with up here on the Copper, we deal with the part that's
26 in our area, we don't make -- we let Eastern Interior
27 decide when we have people from our area going into the
28 Eastern Interior and I think that that would be well
29 within the way we've handled things between Eastern
30 Interior to let it go.

31

32 MR. ELVSAAS: Our area cuts off here.

33

34 CHAIRMAN LOHSE: Right. Our area cuts
35 off right there.

36

37 MR. ELVSAAS: Why are we discussing this?

38

39 CHAIRMAN LOHSE: I don't know.

40

41 MS. WELLS: Because the users are in our
42 area.

43

44 CHAIRMAN LOHSE: Because the users are in
45 our area.

46

47 MR. CHURCHILL: We care.

48

49 CHAIRMAN LOHSE: Because we care, right.

50 Okay, if we have no motion, I'm going to give you guys 30

00120

1 seconds to put a motion on the table or we will let this
2 die and go on to 9 -- or I mean 8b and.....

3

4 MR. CHURCHILL: Is it possible to get a
5 health and welfare break, Mr. Chair?

6

7 CHAIRMAN LOHSE: Uh?

8

9 MR. CHURCHILL: Is it possible to get a
10 health and welfare break like five minutes?

11

12 CHAIRMAN LOHSE: You mean before we put
13 it on the table or after we decide we're not putting it
14 on the table?

15

16 MR. ELVSAAS: We're not.

17

18 MR. CHURCHILL: We're not putting it on
19 the table.

20

21 CHAIRMAN LOHSE: Okay. So the 30 seconds
22 is up and we'll have a health and welfare break for five
23 minutes.

24

25 (Off record)

26

27 (On record)

28

29 CHAIRMAN LOHSE: We're on Proposal 8b, 9b
30 and 10b. Larry.

31

32 MR. BUKLIS: Yes, Mr. Chairman.

33

34 CHAIRMAN LOHSE: And is this dealing with
35 resources.....

36

37 MS. WILKINSON: Excuse me, Mr. Chairman.

38

39 CHAIRMAN LOHSE:actually in our
40 area or is this all resources over.....

41

42 MS. WILKINSON: Microphone.

43

44 MR. BUKLIS: Mr. Chairman, my name is
45 Larry Buklis, fishery biologist with the Office of
46 Subsistence Management and I'll address 8b, 9b and 10b.
47 You began with a question this is the Cook Inlet
48 fisheries management area but Pat was right, the way the
49 Regional Council boundaries are drawn, that shore area
50 Tuxedni Bay, Chisik Island, that area is over in the

00121

1 Bristol Bay Council area but it's the Cook Inlet fishery
2 management area.

3

4 CHAIRMAN LOHSE: Okay.

5

6 MR. ELVSAAS: Cook Inlet, you mean under
7 the State. Federal, too? Oh, okay.

8

9 (Laughter)

10

11 CHAIRMAN LOHSE: For fisheries
12 management. But the Council who has jurisdiction, if I
13 understand right, is Bristol Bay?

14

15 MR. BUKLIS: Mr. Chairman, when the
16 Federal program adopted -- adapted to the fishery
17 management, we took up the State fishery management areas
18 so there are defined fishery management areas and our
19 regulations -- for example, the one we're about to take
20 up, requests regulations for the take of shellfish in the
21 Cook Inlet area, that's a geographic area, it's a fishery
22 management area. The Regional Council boundaries, the
23 Councils that advise the Board, those boundaries were
24 drawn up more than 10 years ago when the Federal program
25 began and it began with wildlife and fisheries in non-
26 navigable waters. And so those Regional Council
27 boundaries may not line up perfectly with fishery
28 management areas. And this is a case where they don't
29 match up along the same line.

30

31 I have with me and I think you have some
32 with you, a map of the Cook Inlet fishery management
33 area. It's this smaller map here that I'm holding in
34 front of you. And this red line encompasses the Cook
35 Inlet fishery management area and you can see the west
36 side and the east side of Cook Inlet are managed in
37 unison, they're both within the Cook Inlet fishery
38 management area, which makes good sense for managing
39 resources in the Cook Inlet watershed.

40

41 The Regional Council boundaries were
42 drawn many years ago and the line does not -- you can see
43 that the line comes up the middle of Cook Inlet waters
44 and that western side is over in the Bristol Bay Council
45 area.

46

47 CHAIRMAN LOHSE: Okay.

48

49 MR. BUKLIS: And probably was a function
50 of game management units and game management concerns.

00122

1 CHAIRMAN LOHSE: Okay, thank you on that
2 Larry.

3
4 MR. BUKLIS: You're welcome. My
5 presentation is on 8b, 9b, 10b. The analysis can be
6 found on Page 107 in your book.

7
8 Current Federal regulations do not allow
9 the take of shellfish for subsistence purposes in the
10 Cook Inlet area. This Staff analysis addresses the
11 harvest regulation portion of these three combined
12 proposals for shellfish.

13
14 Commercial shellfish fisheries have been
15 concentrated in Lower Cook Inlet. Tuxedni Bay is located
16 on the west side of the central district north of that
17 area. The availability of shellfish resources within the
18 specific waters of Federal jurisdiction in the vicinity
19 of Tuxedni Bay is uncertain. The greater Gulf of Alaska
20 region which includes the Cook Inlet area supported rapid
21 expansion of crab and shrimp commercial fisheries during
22 the 1960s, 1970s up into the early 1980s but since then
23 most of these fisheries have collapsed. Climate change
24 and overfishing are typically given as causes for these
25 stock collapses. Current State regulations for shellfish
26 allow the take of clams in the Port Graham subdistrict
27 for subsistence purposes. So the extent of subsistence
28 regulations or opportunity under State management in the
29 Cook Inlet area is Port Graham subdistrict clams for
30 subsistence.

31
32 I'm going to now very briefly highlight
33 some key points on stock status for these resources.

34
35 For the Cook Inlet management area, as a
36 whole, king crab fishing has been closed to all user
37 groups in State regulations for over 15 years due to
38 depressed stocks. Dungeness crab commercial fishery was
39 closed in regulation by the Board of Fisheries beginning
40 in 1997 and in March 2000 the personal use and
41 sportfisheries for dungeness were closed in regulation to
42 protect the stocks. So we now have commercial, sport and
43 personal use closed for dungeness. Tanner crab
44 commercial fisheries have been closed since 1995, other
45 uses are allowed under restrictive limits. For shrimp,
46 commercial, personal use and sportfisheries were closed
47 in regulation beginning in 1997.

48
49 Razor clam concentrations are present in
50 many areas of Cook Inlet but are most dense near Polly

00123

1 Creek on the west side and from Clam Gulch to Ninilchik
2 on the east side. That east side has been set aside in a
3 State regulations for personal use and sport, no
4 commercial since 1959 but there is a commercial harvest
5 on the west side in addition to other uses.

6

7 Information is lacking regarding the
8 abundance of shellfish specific to the area of Federal
9 subsistence jurisdiction. Status of crab and shrimp
10 stocks generally in Cook Inlet is depressed and fishing
11 opportunities targeting these species in State
12 regulations are very restrictive or closed. Effort and
13 harvest are expected to be low in the Federal subsistence
14 fishery due to the remoteness of the location, the
15 limited area we're talking about and uncertain abundance
16 of the shellfish resources. Even so, a precautionary
17 approach is warranted given the depressed status of these
18 stocks of many of these shellfish resources in the Cook
19 Inlet area in general.

20

21 Modification of the proposals is
22 recommended to parallel the conservation features in
23 place under State management for personal use fisheries.
24 There may be merit in noting the limited geographic area
25 of Federal jurisdiction in the vicinity of Tuxedni Bay
26 and lack of information on shellfish availability within
27 that specific area of jurisdiction.

28

29 I've put such language in the proposed
30 modified regulation but I acknowledge that if it's not
31 appropriate for such language to be in the actual Federal
32 Register we may want to at least put such language in the
33 public informational booklet on the regulations.

34

35 Mr. Chairman, that concludes my overview
36 of the analysis.

37

38 CHAIRMAN LOHSE: Okay. And we find the
39 proposed regulation on Page 111, right?

40

41 MR. BUKLIS: Yes, Mr. Chairman. The
42 proposed regulation is on Page 111 and it would
43 incorporate the State management approach to the personal
44 use fisheries into this Federal subsistence fishery. So
45 it would fully address any shellfish stocks and I
46 understand that some of these stocks may not be present
47 but it would at least address it so there wouldn't be any
48 loopholes.

49

50 So there was talk earlier about butter

00124

1 clams, littleneck clams, do they occur here, do they not.
2 This regulation would speak to what the rules are if they
3 were found.

4

5 CHAIRMAN LOHSE: And you were saying that
6 if it was not proper to put this into the Federal
7 Register, to put it where?

8

9 MR. BUKLIS: Mr. Chairman, that comment I
10 made was only as to that advisory of the limited
11 jurisdiction and the lack of good information on
12 abundance.

13

14 CHAIRMAN LOHSE: Okay.

15

16 MR. BUKLIS: It was that phrase up at the
17 top of Page 111 in the second line.

18

19 CHAIRMAN LOHSE: Okay.

20

21 MR. BUKLIS: It says although relevant
22 Federal jurisdiction, et cetera, that phrase there may
23 not be Federal Register.....

24

25 CHAIRMAN LOHSE: Might not be Federal
26 Register.....

27

28 MR. BUKLIS:material.

29

30 CHAIRMAN LOHSE:material.

31

32 MR. BUKLIS: But we could maybe put it as
33 an information item for the public.

34

35 CHAIRMAN LOHSE: Right.

36

37 MR. BUKLIS: It's more of an advisory.

38

39 CHAIRMAN LOHSE: Okay.

40

41 MR. BUKLIS: I didn't want the
42 regulations to mislead people as to opportunity and
43 mislead them into the Polly Creek area, I wanted to
44 highlight these cautions.

45

46 CHAIRMAN LOHSE: Okay, right. I think to
47 me that's a very good way to do it. Any questions for
48 Larry. Fred.

49

50 MR. ELVSAAS: Yeah, you said that there

00125

1 were no other crab fisheries in southern Cook Inlet? The
2 State has a personal use fishery for tanner crab.

3

4 MR. BUKLIS: Yes, Mr. Chairman, what I
5 said was under State management for subsistence
6 identified as subsistence priority, the only shellfish
7 subsistence fishery in the Cook Inlet area is Port Graham
8 subdistrict and it's for the take of clams. Other
9 shellfish fisheries in the Cook Inlet area would be
10 commercial, personal use or sport. So there are
11 opportunities.

12

13 MR. ELVSAAS: Oh, I see, I get it.

14

15 MR. BUKLIS: But under the category
16 called subsistence there's only the one.

17

18 MR. ELVSAAS: Given that the State allows
19 personal use for crab in southern Cook Inlet, wouldn't it
20 make sense for the Federal waters to be available for
21 subsistence fishing then? If subsistence is the highest
22 priority.

23

24 CHAIRMAN LOHSE: Larry.

25

26 MR. BUKLIS: Mr. Chairman, as I
27 understand the question, the -- my understanding is under
28 State management a person, an Alaska resident could fish
29 for shellfish in the Federal waters area under State
30 personal use regulations. So there is personal use
31 opportunity in these very waters we're talking about.
32 But at this time, our Federal regulations do not allow
33 the take of shellfish. So right now, a person could fish
34 under State personal use regulations for shellfish under
35 the constraints of those regulations, certain species are
36 closed, others have limits. There are constraints but
37 they could fish under State personal use regulations but
38 they could not fish under Federal subsistence regulations
39 in those waters at this time.

40

41 MR. ELVSAAS: Mr. Chairman, just a
42 comment.

43

44 CHAIRMAN LOHSE: Fred.

45

46 MR. ELVSAAS: Maybe we need to address
47 this in the future in some fashion. Because the personal
48 use fishery is during July month when most people are
49 busy doing other things such as commercial fishing and so
50 forth. And ironically, that's the worst time to get

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1 those crab, they are thin and they've just been soft-
2 shell and so forth but it's something we should look at.
3 If the State allows a fishery, in Federal waters, we
4 should take a look at a proposal for subsistence fishing
5 in those same waters on an annual basis.

6
7 The winter weather from now until spring
8 wouldn't allow any fishery anyway but there's times in
9 the spring months and fall months when it would be
10 practical to fish when people have time. But it's
11 nothing we can address right now.

12
13 CHAIRMAN LOHSE: It is, Fred. That's
14 what this proposal does do. This proposal does address
15 it and the modification addresses that, it basically
16 allows a Federal season and puts some limits on the
17 Federal season but it has no time limit. If I understand
18 right, this Federal proposal for subsistence is a year-
19 round proposal. Am I correct on that, Larry?

20
21 MR. BUKLIS: Mr. Chairman, it has no time
22 limit in the sense that it's not sunsetted or identified
23 for a particular year only. But for tanner crab there is
24 a season defined on Page 111, Item A. Male tanner crab
25 may be taken only from July 15 through March 15. So it
26 would be the latter half of summer, all of the fall, all
27 of the winter, up until March 15th.

28
29 CHAIRMAN LOHSE: Okay.

30
31 MR. BUKLIS: And that would parallel with
32 State personal use.

33
34 CHAIRMAN LOHSE: Okay, I missed that one
35 there. So this addresses what you were talking about
36 Fred.

37
38 MR. ELVSAAS: Okay. I agree that June
39 and July is a poor time to fish crab. You do more
40 damage to the stock than good for the amount of meat you
41 get out of them at that time. But March 15th, you know,
42 that's -- if we could have that stretched to April I
43 think it'd be more realistic.

44
45 CHAIRMAN LOHSE: When it comes time to
46 discuss this motion, we could put modifications in on it
47 at that time.

48
49 Alaska Department of Fish and Game, any
50 comments on this -- oh, did anybody else have any other

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1 questions for Larry? My fault. I didn't think so, thank
2 you, Larry.

3

4 MR. TAUBE: Mr. Chairman, the Department
5 has split their responses between 8b and 9b and then has
6 a separate response for 10b. And for Proposals 8b and
7 9b, the Department does not support the proposal. No
8 stock assessment data are currently available in Tuxedni
9 Bay to identify a harvestable surplus of crabs. The
10 forthcoming Staff analysis of this proposal shall address
11 each stock that occurs on lands and waters subject to
12 Federal jurisdiction. Best available information
13 suggests dungeness crab stocks in Cook Inlet are
14 depressed.

15

16 The Alaska Board of Fisheries recently
17 adopted a comprehensive tanner crab management plan that
18 responsibly addresses a sustainable level of non-
19 commercial use. Razor clam harvest in this area is
20 essentially unrestricted. Thus the proposed regulatory
21 language does not appear to provide an added benefit to
22 users.

23

24 If either or both of these proposals are
25 approved, we recommend a permit system and harvest limit
26 similar to the State regulations. Particularly in
27 situations such as this, where the subsistence area is
28 essentially a Federal inholding surrounded by State
29 lands.

30

31 And then the State comments for 10b,
32 again the Department does not support the proposal. This
33 proposal seeks to establish subsistence shellfish
34 opportunities in Cook Inlet. Except for Tuxedni Bay, no
35 shellfish stocks fall within Federal jurisdiction. This
36 proposal needs to be limited to shellfish stocks that
37 occur within Federally managed waters.

38

39 CHAIRMAN LOHSE: Any questions for Tom.
40 Tom, basically what you're saying is on 10b, if we're
41 going to do 10b, we should include the comment that this
42 is restricted to the Federal waters of Tuxedni Bay so
43 that we don't lead people astray?

44

45 MR. TAUBE: That's correct.

46

47 CHAIRMAN LOHSE: Anybody else have any
48 questions for Tom -- thank you, Tom. Are there any other
49 Federal, State or tribal agency comments to be made on
50 this proposal.

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1 MS. WRIGHT: I just wanted to.....

2

3 MS. WILKINSON: Microphone.

4

5 MS. WRIGHT: This is Sherry Wright. I
6 just wanted to, along the lines of this, the Tyonek
7 Advisory Committee has submitted a proposal, it's
8 Proposal 398 to the Board of Fisheries to create a new
9 regulation to provide a subsistence clamming area from
10 one mile north to one mile south of Harriett Point with
11 seasons March 15th through September 30th. So I just
12 wanted you to be aware of that. That will be taken up at
13 the March 2003 Board of Fish meeting.

14

15 CHAIRMAN LOHSE: Okay. That's north of
16 that area there. But that doesn't address anything with
17 crabs then, just strictly clams?

18

19 MS. WRIGHT: (Nods affirmatively)

20

21 CHAIRMAN LOHSE: Okay. Any questions for
22 Sherry?

23

24 MR. ELVSAAS: No.

25

26 CHAIRMAN LOHSE: Okay, thank you. Public
27 comments, public testimony. I have James down here. Mr.
28 Showalter.

29

30 MR. SHOWALTER: That's salmon?

31

32 CHAIRMAN LOHSE: No, this is still on the
33 crabs and clams. No testimony?

34

35 MR. SHOWALTER: (Shakes head negatively)

36

37 CHAIRMAN LOHSE: Okay. Do we have any
38 written public comment on this?

39

40 MS. WILKINSON: Mr. Chairman, there was
41 none.

42

43 CHAIRMAN LOHSE: No written public
44 comment either. Okay. With that, a motion to put this
45 on the table for deliberation, recommendation and
46 justification is in order or a motion for a -- or no
47 motion is also in order or a motion to defer is in order,
48 whichever is the wish of the Council in this case.

49

50 MR. ELVSAAS: Mr. Chairman.

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1 CHAIRMAN LOHSE: Fred.

2

3 MR. ELVSAAS: I would move the proposal
4 but I sure need some clarification.

5

6 CHAIRMAN LOHSE: Okay.

7

8 MR. CHURCHILL: I'll second then.

9

10 CHAIRMAN LOHSE: That should be part of
11 our deliberations. So you're moving to put Proposals 8b,
12 9b and 10b on the table, am I correct?

13

14 MR. ELVSAAS: 8b, 9b and 10b, okay, yes,
15 I will.

16

17 CHAIRMAN LOHSE: And that's been
18 seconded?

19

20 MR. CHURCHILL: Uh-huh.

21

22 CHAIRMAN LOHSE: These are proposals
23 dealing with setting up shellfish subsistence seasons in
24 Cook Inlet. Fred, what was it that you need
25 clarification and who can we get it from?

26

27 MR. ELVSAAS: Well, as I understand it
28 and I just heard you mention a minute ago, we were
29 talking about only the Tuxedni area at one point?

30

31 CHAIRMAN LOHSE: That's the only area
32 that we have jurisdiction over, period.

33

34 MR. ELVSAAS: It's my understanding that
35 there's a lot of Federal waters in southern Cook Inlet.
36 Everything three miles off shore is Federal, yes?

37

38 CHAIRMAN LOHSE: Headland to headland,
39 it's not. Do I have a clarification from somebody on
40 that?

41

42 MR. KNAUER: Yes, Mr. Chairman. Bill
43 Knauer, Office of Subsistence Management. You're
44 absolutely correct, for the Federal Subsistence
45 Management Program, the area -- the water areas of
46 jurisdiction lie only within or adjacent to the exterior
47 boundaries of the conservation system units of the Forest
48 or those prestatehood withdrawals in marine waters. And
49 in this particular case, that means in the Cook Inlet
50 area, the only areas of Federal jurisdiction in marine

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1 waters would be those waters in the Tuxedni Bay, Chisik
2 Island area.

3

4 The areas that you're thinking of may be
5 Federal under another program but not under the Federal
6 Subsistence Management Program.

7

8 CHAIRMAN LOHSE: Right.

9

10 MR. ELVSAAS: That's something.

11

12 CHAIRMAN LOHSE: Does that clear
13 something up?

14

15 (Laughter)

16

17 CHAIRMAN LOHSE: So the thing to remember
18 is that whatever we're discussing on this applies only in
19 that little portion of the map that we've looked at that
20 says Tuxedni Bay and Chisik Island. That's the only
21 thing that we're discussing. That's the only thing
22 there's jurisdiction over that we can make recommendation
23 on.

24

25 So when we're talking a shellfish season
26 or a crab season or anything like that, it's taking place
27 in those waters or on Chisik Island and at the head of
28 Tuxedni Bay.

29

30 MR. ELVSAAS: Mr. Chairman.

31

32 CHAIRMAN LOHSE: Yes, Fred.

33

34 MR. ELVSAAS: In view of the
35 clarification, I'd like to withdraw my motion then.

36

37 MR. CHURCHILL: The second will also
38 withdraw.

39

40 CHAIRMAN LOHSE: Okay, the motion's been
41 withdrawn and the second's withdrawn. We have no motion
42 on the table.

43

44 MR. ELVSAAS: No motion.

45

46 CHAIRMAN LOHSE: Well, unless somebody
47 else -- unless Susan wants to make a motion, it's dead
48 and gone in 30 seconds and we move on. It's dead and
49 gone.

50

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1 MR. ELVSAAS: Thank you.

2

3 CHAIRMAN LOHSE: Okay. It's 4:03 and it
4 looks to me like we're going into another possible
5 controversial proposal.

6

7 (Laughter)

8

9 MS. WELLS: We might as well get half of
10 it out of the way.

11

12 CHAIRMAN LOHSE: We might -- yeah, Susan
13 says we might as well get half of it out of the way. I
14 hope we -- I've had a request that instead of going until
15 5:00 o'clock, if that dinner is at 6:00 o'clock, some of
16 the people need a little longer to prepare, we're going
17 to shoot to get out of here around 4:30. If it looks
18 like we're not making good progress on this one at 4:30
19 we will recess the meeting until tomorrow morning and
20 continue on this one. If it looks like another five
21 minutes will make it we'll continue until we finish. And
22 if we finish at five minutes before 4:30, we're not going
23 on to another proposal.

24

25 With consent of the rest of the Council
26 I'd like to move 28 back to its original place on the
27 agenda.

28

29 MS. WELLS: Okay, it's done.

30

31 CHAIRMAN LOHSE: Does the rest of the
32 Council consent to that?

33

34 MR. CHURCHILL: Absolutely.

35

36 MR. ELVSAAS: You're our fearless leader.

37

38 CHAIRMAN LOHSE: Okay, we're going
39 back....

40

41 (Laughter)

42

43 CHAIRMAN LOHSE: I'm going to get my head
44 chopped off. We're at No. 28, Page 67. Larry, will
45 present it to us.

46

47 MR. BUKLIS: Mr. Chairman, Proposal No.
48 28, this is a statewide proposal submitted by the Office
49 of Subsistence Management. It would streamline the in-
50 season special action process.

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1 Under this regulation, in-season special
2 actions would be issued only when Federal management
3 actions are intended to differ from State subsistence
4 management actions. State emergency orders for
5 subsistence fisheries would apply to Federal management
6 when State and Federal managers agree on actions to be
7 taken. Federal in-season managers would retain the
8 authority to issue special actions, if needed, at any
9 time.

10
11 Safeguards would be built into this
12 process. The Regional Councils and the public would
13 continue to be involved in the Federal decision-making
14 process. The designated in-season manager would continue
15 to consult with concerned individuals and groups in
16 developing management assessments whether those led to
17 State issued subsistence emergency orders or to Federal
18 subsistence special actions.

19
20 Additionally, Council members or the
21 public can appeal management actions to the Federal
22 Board.

23
24 The intent of this proposal is to
25 eliminate redundancy and reduce confusion. The current
26 procedure is that each in-season change to the fisheries
27 regulations requires a special action. Most of these
28 special actions are parallel to actions also being taken
29 by the State. As an example, on the Yukon River in 2001,
30 the Federal in-season manager issued 27 special actions,
31 of those 26 were identical to State emergency orders.
32 Confusion can be generated in rapidly evolving situations
33 if a new special action is issued or going into effect
34 while the most recent special action is still being
35 published and notified.

36
37 The Federal Subsistence Board approved a
38 temporary one year streamlining process for special
39 actions on a trial basis in the Yukon and Kuskokwim
40 Rivers this last season, 2002. This had the support of
41 those local Councils for the YK-Delta, Western and
42 Eastern Interior.

43
44 Consultation with in-season managers for
45 the Yukon and Kuskokwim indicates that this approach
46 worked well. For other areas of the state, the
47 streamlining process may be premature. The overall
48 Federal/State Memorandum of Agreement includes as one of
49 its goals, the development of protocols or procedures for
50 regulatory processes. A protocol was completed for in-

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1 season fisheries management on the Yukon and Kuskokwim
2 Rivers but for the rest of the state work is continuing
3

4 Success of efforts to date on the Yukon
5 and Kuskokwim should help the overall statewide effort.
6 The analysis, which I did not prepare myself but I'm
7 highlighting for you on behalf of the analyst, the
8 analysis recommends support with modification. The
9 modification would be to adopt the proposal for a
10 streamline special action process but only for the Yukon
11 and Kuskokwim Rivers at this time. And then this could
12 be expanded upon later after the statewide protocol for
13 in-season management coordination has been developed and
14 agreed upon.

15
16 So, Mr. Chairman, the preliminary
17 conclusion is at the very bottom of Page 73 and then the
18 regulatory language would be at the top of Page 74. And
19 I did notice a -- when I highlighted this for the Bristol
20 Bay Council yesterday, I noted there's kind of a typo
21 there in the proposed language, it says for the Yukon and
22 Kuskokwim regions and then it says statewide Federal
23 Subsistence fishing schedules, I don't think statewide
24 belongs there. I think part of the modification is to
25 supplant statewide with the YK.

26
27 CHAIRMAN LOHSE: Thank you, Larry. Any
28 questions for Larry. Well, I've only got one question or
29 comment, if we, as a Council feel like we should accept
30 to support with modification and basically we're making a
31 decision for the Yukon/Kuskokwim region, we basically
32 should take no action on this. I mean if we're not
33 putting it into our area, if we don't feel it's right for
34 our area at this point in time, it's not for us to decide
35 that this is applicable to the Yukon/Kuskokwim area. We
36 can't speak for them.

37
38 So from that standpoint, I'd like to hear
39 the rest of the comments and everything else. But, you
40 know, if it's the feeling of the Council that we can
41 support the Staff's analysis that it should be limited to
42 the Yukon/Kuskokwim at this point in time, there's no
43 need for us to go any further than us to just listen to
44 the presentation.

45
46 Any other questions for Larry. Thank
47 you. Alaska Department of Fish and Game.

48
49 MR. TAUBE: Mr. Chairman, the Staff
50 Department of Fish and Game comments were directed at the

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1 original proposal, not the modification. And the
2 Department supported the original proposal.

3

4 The Department supported streamlining the
5 special action process whereby special actions would only
6 be issued in-season when Federal management actions
7 differ from State management actions. Under this
8 proposal State emergency orders would apply to Federal
9 waters in instances where the State and Federal managers
10 agree on subsistence fishing management actions. This
11 would encourage a more coordinated management approach
12 for Federal and State managers. It will also reduce
13 duplication of effort and confusion for the public by
14 coordinating news releases and legal notices regarding
15 identical management actions.

16

17 And in addition, as a broader point, this
18 approach should also be used in fishing regulations
19 because State regulations apply on Federal waters, we
20 consider that it would be clearer to the public if the
21 Federal system published only those regulations that
22 differ from State regulations. This would create a more
23 coordinated approach with fewer, inadvertent differences
24 in regulations between systems and clearer provisions for
25 law enforcement, the public and fishery managers.

26

27 Presently, it is very difficult for
28 people to determine which requirements apply because they
29 must compare the specific provisions and exact wording of
30 Federal and State regulations.

31

32 CHAIRMAN LOHSE: Any questions for Tom --
33 Bob.

34

35 MR. CHURCHILL: Yeah, thank you, Tom.
36 What I'm hearing you say, that based on your analysis,
37 you feel this type of a regulation would fit well with
38 our area?

39

40 MR. TAUBE: Currently there isn't a
41 protocol between -- for the Copper River. You know, what
42 I'm taking this is that once a protocol is developed then
43 this process would work. And we don't currently have a
44 protocol for the Copper River right now. Since we
45 support the overall statewide, the Department also
46 supports just applying to the Yukon and Kuskokwim.

47

48 Thank you.

49

50 CHAIRMAN LOHSE: And Tom, if I'm hearing

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1 right, what's being suggested by the State is that the
2 Federal government would only publish things that aren't
3 in concurrence with the State, things that are different?

4

5 MR. TAUBE: That's correct.

6

7 CHAIRMAN LOHSE: The only one problem
8 that I can see with that is that then you'd have to have
9 two sets of regulation books because you have to look at
10 the one to see where it's different from the other one
11 where the complete regulations are in the Federal book
12 then you can just look at the Federal book and if you're
13 going to abide by Federal regulations they're all there
14 without having to say, now, I need the State regulations
15 first and now where does it differ, you know.

16

17 So I'm not sure whether it streamlines or
18 makes it more confusing is what I'm trying to think of.

19

20 Yeah, Bob.

21

22 MR. CHURCHILL: Yeah, aren't we talking
23 about EOs here?

24

25 MR. TAUBE: Usually when you cut an EO,
26 you summarize the regulations in there and then that's
27 where that, I guess, would apply.

28

29 MR. CHURCHILL: To follow-up then, I mean
30 these EOs are not in the book by definition, they're
31 going to be punished in-season. They wouldn't be in the
32 Federal book anyway, would they?

33

34 MR. TAUBE: No, the EOs would not.

35

36 CHAIRMAN LOHSE: They have two points in
37 here. The second point was, it says on a broader point,
38 this approach could be used for Federal regulations and
39 that was the point that I was getting at right there. Is
40 that, if you're going to put out a regulation book, I
41 just as soon the regulation book had the complete
42 regulation instead of having to look and say, well, this
43 is where it differs, now, what it is that we're under, I
44 have to have the other book, too, you know.

45

46 But for EOs, I don't see any -- to me it
47 looks like a good idea on EOs. But for a regulation
48 book, you know, where you're fishing regulations -- I
49 would hate to see a fishing regulation book that says
50 these are the areas that we differ and there's no

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1 regulations in there.

2

3 So Tom, any comment on that.

4

5 MR. TAUBE: Yeah, I see your point. I
6 agree with your point. This was done prior to that and,
7 you know, I guess I would disregard it if you feel that
8 way.

9

10 CHAIRMAN LOHSE: Yeah. Well, basically I
11 was just pointing out what I saw as a problem on the last
12 half.

13

14 Okay, Fred.

15

16 MR. ELVSAAS: Mr. Chairman, I'm a little
17 confused here now. We're going to make the subsistence
18 seasons tailor match or coincide with the.....

19

20 CHAIRMAN LOHSE: Unh-unh.

21

22 MR. ELVSAAS: We're not, okay.

23

24 CHAIRMAN LOHSE: Yeah, what it's saying
25 is that when the actions of both the Federal and the
26 State agree, then you only publish one of them. When
27 they disagree you publish both.

28

29 MR. ELVSAAS: Okay. Okay, I'm fine with
30 it then.

31

32 CHAIRMAN LOHSE: I'm correct in that,
33 right, Tom.

34

35 MR. TAUBE: Yes, Mr. Chairman, that's
36 correct.

37

38 CHAIRMAN LOHSE: Okay. Any other
39 questions for Tom. Do we have any public testimony on
40 this one, I don't remember seeing any. Gabe.

41

42 MR. G. SAM: Mr. Chair, this is not
43 really question but a point of information. Again, when
44 I was reading this over, you know, this information, the
45 streamlined information was developed from results --
46 Regional Advisory Council members or the public can
47 appeal management -- a lot of the information that was
48 gathered on the Yukon and the Kuskokwim were the
49 fishermen that live on those rivers.

50

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1 For example, U.S. Fish and ADF&G worked
2 jointly on the Yukon River and they also worked with
3 YRDFA, Yukon River Drainage Fishermen's Association. I
4 think it would do good, you know, the makers of this
5 proposal establish that somewhere in this proposal, the
6 people living on the Yukon and Kuskokwim were major
7 players in this developing of this streamlining effect.

8

9 That's just one point I'd like to make,
10 is that, there are people on that river that provide them
11 a lot of information. Again, they just didn't pull it
12 out of the air.

13

14 CHAIRMAN LOHSE: Right.

15

16 MR. G. SAM: Thank you.

17

18 CHAIRMAN LOHSE: Thank you. Any other
19 questions for Gabe. I think we've been given enough
20 information on the Yukon/Kuskokwim that I think we kind
21 of understand the corporation, it's been an example to
22 the rest of us of the cooperation that can be between
23 users and managers of both types, the Federal and the
24 State managing system. It's actually been a fairly good
25 example of people working together.

26

27 Thank you for bringing that to our
28 attention again.

29

30 MR. G. SAM: Yes. They had weekly
31 teleconferences on Tuesday at 1:00 o'clock up and down
32 the river through YRDFA teleconferences, the monies that
33 they got from the R&E funds for this.

34

35 Thank you.

36

37 CHAIRMAN LOHSE: It shows what can be
38 done when people do work together.

39

40 MR. G. SAM: Oh, yeah.

41

42 CHAIRMAN LOHSE: Okay. I have one other
43 public testimony, Eric Veach.

44

45 MR. VEACH: Mr. Chairman, Eric Veach with
46 St. Elias National Park. As you know the Parks, the in-
47 season manager for the Copper River, I wanted to see if I
48 could just shed a little bit of light for you on how this
49 might effect the Copper River.

50

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1 You know, on the surface it really seems
2 like it would be a great way to save us a labor on our
3 end certainly with the Chitina subdistrict that is opened
4 regularly through periodic openings but there are still
5 some details that would need to be worked out a little
6 bit.

7
8 One example would be the Batzelnetas
9 fishery. Under State regulations, the Batzelnetus is
10 management through periodic openings so essentially the
11 season opens June 1st but it's managed through periodic
12 openings. Under Federal regulations, the Batzelnetus
13 fishery is opened continuously. Well, the Park could
14 issue a special action that would supersede the State's
15 emergency order when they issue an emergency order that
16 restricts the Batzelnetus fishery to periodic openings.
17 But as the in-season manager, we only have the authority
18 to issue special actions for up to 60 days. So what this
19 would do is it would put Gary Candelaria, the Park
20 Superintendent in the position of having to choose which
21 60 days he would like to issue a special action that
22 would superseded the State's emergency order, which then
23 kind of puts him in the position of having to choose when
24 Katie John and the other folks with C&T for the
25 Batzelnetus fishery can fish continuously. And we're
26 just not really ready to do that at this time. And I
27 think that's really, at for this region, that's probably
28 one of the reasons that led to the Staff recommendation
29 that this only be adopted for the Yukon and Kuskokwim
30 regions right now.

31
32 CHAIRMAN LOHSE: Okay, thank you. From
33 what I understand from what you said, Eric, is he can
34 only make one special action on a single issue, he can't
35 make concurrent special actions that repeat the same
36 issue?

37
38 MR. VEACH: That's correct. We just
39 couldn't just wait 60 days and issue a second special
40 action that would exactly mimic the first one.

41
42 CHAIRMAN LOHSE: Okay.

43
44 MR. VEACH: There is another process. I
45 mean the Federal Board could take what's a temporary
46 action, which is a little different than a special action
47 which that is outside the purview as the in-season
48 manager and it's a little more complex. So that was
49 really our concern that we expressed with this proposal
50 and I guess I'd just like to say that the Park would

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1 certainly recommend that you adopt the Staff
2 recommendation for this proposal.

3

4 CHAIRMAN LOHSE: Can I ask one more
5 question on this. Currently, on the Batzelnetus fishery
6 it's not in regulation then that it's open for the
7 season, it is a special action to open it?

8

9 MR. VEACH: No, it is in regulation. It
10 opens May 15th and closes September 30th.

11

12 CHAIRMAN LOHSE: Okay.

13

14 MR. VEACH: And if this proposal -- if
15 the original proposal was adopted, not the Staff
16 recommendation but the original proposal, what that would
17 do is if when the State issues an emergency order that
18 restricts that season under State regulations to a
19 periodic opening, then if the in-season manager didn't
20 agree with that emergency order then we would have to
21 issue a special action to supersede the State emergency
22 order. And that special action would only be valid for
23 60 days.

24

25 As it stands now, we don't do anything
26 and the season is open continuously.

27

28 CHAIRMAN LOHSE: Okay. So you would
29 actually have to supersede a State action even if it
30 disagreed with Federal regulation?

31

32 MR. VEACH: That's correct.

33

34 CHAIRMAN LOHSE: Okay. That's the part I
35 didn't understand. I was under the impression that if
36 there was a Federal regulation and that's where it would
37 differ from State, Federal said it's open continuously
38 from June 1st to -- I'm grabbing numbers out of the air.

39

40 MR. VEACH: Uh-huh.

41

42 CHAIRMAN LOHSE: June 1st to September
43 15th, that would stand unless the Federal government
44 would make a special action to close it. But in the case
45 of this proposal, if the State makes a special action to
46 close it and no comment is made by the Federal government
47 then it is closed?

48

49 MR. VEACH: That's correct.

50

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1 CHAIRMAN LOHSE: Okay. Okay, I have no
2 other public comments, do we have any written public
3 comments?

4
5 MS. WILKINSON: Yes, Mr. Chairman, we do.
6 Cordova District Fishermen United supports this proposal
7 in the interest of clarity and consistency. This
8 regulation will require collaboration and cooperation
9 between State and Federal managers resulting in benefits
10 to the resource, managers and users.

11
12 Copper River Native Association supports
13 the Staff's recommendation to adopt the proposal only for
14 the Yukon and Kuskokwim regions at this time.

15
16 The Wrangell-St. Elias National Park
17 Subsistence Resource Commission recommends deferring this
18 proposal and that's the only comment.

19
20 CHAIRMAN LOHSE: Okay. Okay, with that
21 our Council is in position to make a motion to put this
22 on the table. To make a motion to defer, to make a
23 motion to not make a motion.

24
25 As Chair, I would say that I would have
26 real difficulty making a motion to apply it to a
27 different area. That would be the hardest part for me.
28 I mean there's no way as a Chair I could support a motion
29 to apply it to the Kuskokwim/Yukon. I feel that it's the
30 Kuskokwim/Yukon's decision whether they want it applied
31 to them, not ours.

32
33 In that case what we're saying is we're
34 not ready for it but they are. And if we're not ready
35 for it then we either need a motion to defer it or we no
36 motion at all and let it die. That's my opinion as
37 Chair.

38
39 MR. CHURCHILL: Procedural question.

40
41 CHAIRMAN LOHSE: Uh?

42
43 MR. CHURCHILL: Question on procedure.

44
45 CHAIRMAN LOHSE: Question Bob.

46
47 MR. CHURCHILL: Yeah, Mr. Chair, if we
48 deferred it, let's say, then if after a period of time
49 when the YK-Delta had a chance to look at it, could we
50 then automatically pick it up and reconsider it for our

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1 area or would we totally lose access to it and would it
2 have to be proposed a second time?

3

4 CHAIRMAN LOHSE: Well, we can defer it to
5 a specific point in time.

6

7 MR. CHURCHILL: To a date certain?

8

9 CHAIRMAN LOHSE: Uh?

10

11 MR. CHURCHILL: To a date certain?

12

13 CHAIRMAN LOHSE: Yeah, I mean, like we
14 could defer it to next fall, we could defer it to two
15 falls from now or something like that. But if we defer
16 it and don't set a time then I think it automatically
17 comes back on our table. Am I correct on that, Ann?

18

19 MS. WILKINSON: I might want to ask Bill
20 Knauer but it seems like that might be more likely if
21 this were a regional proposal.

22

23 CHAIRMAN LOHSE: Right.

24

25 MS. WILKINSON: But since it's statewide
26 I'm not sure what effect that would have if this one
27 Council deferred it.

28

29 CHAIRMAN LOHSE: Right. Bill, procedural
30 question.

31

32 MR. KNAUER: Yes, Mr. Chairman. What the
33 other Councils have done on this one thus far is defer to
34 the home region. In other words, they have said that
35 they were in a quandary much as you, they don't want to
36 make a decision for some other region so they're saying,
37 okay, home regions YK, Western and Eastern Interior, you
38 folks make the choice on it.

39

40 CHAIRMAN LOHSE: Okay.

41

42 MR. KNAUER: But from a standpoint of
43 bringing it up later, I think we can assume that when the
44 statewide protocol is done we will see something like
45 this because it is, from everything we have seen, very
46 beneficial, both to the user and to the Federal and State
47 officials.

48

49 CHAIRMAN LOHSE: Bob.

50

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1 MR. CHURCHILL: Through the Chair. Then
2 your confident if this works out well in the YK-Delta,
3 that we'll have another proposal in front of us to take
4 action on or not take action on?

5
6 MR. KNAUER: Yes, I'm absolutely sure.
7 Because those 27 actions, I had to prepare Federal
8 register notices for, so if somebody else doesn't, I will
9 be putting it in for a proposal.

10
11 MR. CHURCHILL: Given our most recent
12 evidence I have no problem with not taking action on it
13 or deferring it to the home region.

14
15 CHAIRMAN LOHSE: Do we want a motion to
16 defer to the home regions or do we just want to take no
17 action?

18
19 MR. CHURCHILL: So moved. I think we
20 ought to defer it to the home.

21
22 CHAIRMAN LOHSE: Do I hear a second.

23
24 MS. WELLS: Second.

25
26 CHAIRMAN LOHSE: It's been moved and
27 seconded that we defer action on this to the areas that
28 are currently involved.

29
30 Discussion.

31
32 You know if you do it in one minute,
33 Fred, we get out at 4:30.

34
35 MR. ELVSAAS: Yeah. I feel both ways on
36 this. I'm afraid that if we say well, does this mean
37 we're going to accept whatever they approve?

38
39 CHAIRMAN LOHSE: No, no.

40
41 MR. ELVSAAS: Okay.

42
43 CHAIRMAN LOHSE: It only applies to them.

44
45 MR. ELVSAAS: Okay.

46
47 CHAIRMAN LOHSE: Basically what the Staff
48 recommendation is that other areas are not ready at this
49 time, this will apply only to the Kuskokwim/Yukon River
50 system.

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1 Bob.

2

3 MR. CHURCHILL: I'd like to include all
4 previous discussion that we've had as part of this
5 discussion and call the question.

6

7 CHAIRMAN LOHSE: Okay. Do I hear any
8 objections, question's been called. Question called for.
9 All in favor of signify by saying aye.

10

11 IN UNISON: Aye.

12

13 CHAIRMAN LOHSE: All opposed, signify by
14 saying nay.

15

16 (No opposing votes)

17

18 CHAIRMAN LOHSE: We are recessed until
19 tomorrow morning at 8:30 and it's exactly 4:30, you guys
20 do good work.

21

22 (PROCEEDINGS TO BE CONTINUED)

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3 UNITED STATES OF AMERICA)

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Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 04/17/04